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Special Editor of This Volume

MARVIN E. WOLFGANG

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PREFACE

We are on the edge of an environmental crisis. President Carter spoke of this problem to all Americans on 5 April when he discussed the energy crisis and the need for new energy production, energy conservation, and development technology. All of these efforts by the public and private sectors of our economy and our families are related to how we act and react to our environment. The environment and the quality of life constitute the theme of the 90th anniversary of the Academy, the 83rd annual meeting. What *is* the environment? What do we mean by quality?

The environment is the world around us; it is everything external to our individual physiological and psychic organisms, that which is exogenous, that which we see, smell, hear, and touch beyond the genetic corporeal substance that is ourselves. Environment is defined as "that which environs, the surrounding conditions, influences or forces which influence or modify. . . . In the study of human behavior, environment may be divided into the *physical*, or *inorganic*, *environment*, comprising such factors as climate and soil, the *biological environment* comprising wild plants and animals, including bacteria and other germs, and the *social environment*, comprising everything due to human activity, and divisable in turn into the *physicosocial environment*, comprising roads, and all manufactured objects, the *biosocial environment*, comprising domesticated plants and animals, and the *psychosocial environment*, consisting of human behavior, customs, laws, language, etc."[1] The only example used by Webster's Unabridged Dictionary is from Carlyle: "It is no friendly environment, this of thine."[2]

Our annual meeting for 1979 was devoted to the environment and the quality of life around the world. Although our speakers had been prepared to address various and specific issues concerned with the general topic, only a limited number of issues could be covered in a short program. Many topics beyond this meeting are also part of the environmental problems. We intended to cover a few of the important ones concerned with industry, the United States, and governments abroad.

The recent nuclear power plant problem on Three Mile Island near Harrisburg is an event that was beyond our purview when the Board of the Academy established this theme and program last November. That power plant accident is, of course, part of our environment and the quality of our lives. Our speakers did not present papers directly concerned with that event, for they prepared their papers far in advance of it. Nonetheless, members of the Academy in attendance had the right to raise questions about the effect of nuclear power plants throughout the United States and the world on our quality of life and on our environment.

The Middletown-Harrisburg nuclear plant problem probably had an effect on the attendance at this meeting. Some persons were fearful to come to this region of Pennsylvania because of the potential radiation problems. About this I have regret but also understanding. Fortunately, there was no reason for fear at the time of the meeting.

1. Webster's *New International Dictionary of the English Language*, Second Edition, Unabridged, Springfield, Mass.: G. and C. Merriam Co., 1959.
2. *Ibid.*

The environment is our externality,
  the sense beyond our selves.
It is soil and fauna and fertility
  of animals and species beyond our control.
It is the rubrics of our economy and politics,
  the social rules of governance.

We take much from our environment
  to clothe the landscape of our minds.
Although not alone,
  we cause the course of it.
Antarctic whales were there
  before we caught them.
California redwoods were there
  before we cut them.
New Jersey shores were there
  before we fished them.
Our love of New England,
  and the sands of the coast
  can only be felt if we protect them
  from encroachment.

The environment is ours,
  however, if we want it.
And the quality is under our control.
We alone can protect
  the beauty, protest the ugly.
However we now behave,
  we shall live within
  our own prophecies,
  to enjoy or to regret
  our future environment.

Pollution of the land
  is like boils of the body,
  the sties on our vision
  that stifle clarity.

Yield not to costs
  of freedom from fumes.
For the wings of swans
  and the lungs of progeny
  are the commerce of worth.

Precious is the environment,
  for it is the womb
  of our heartbeat
  where the fetus of our future
  resides.

MARVIN E. WOLFGANG

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The Energy Social System

By SAMUEL Z. KLAUSNER

ABSTRACT: An array of economic markets in mineral resources is being displaced by a politically dominated energy social system. International energy decisions are now part of regular diplomatic activity. Growing governmental involvement in energy activities has contributed to politicizing relations among energy suppliers and energy consumers within nations. The environmental and energy social movements are expressions of conflict between social strata. Energy and environment issues are selected and acted upon in the context of this wider political confrontation. The debate between "growth" and "steady state" reflects the struggle between two forms of utopian ideology within the energy social system. Two effects of the emergence of the energy social system are: (1) a redrawing of the axes of alliance and conflict among national states and among groups within states; and (2) the reduction in the supremacy of the capitalist market as a cultural institution in favor of political action governing resource allocation.

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Preparation of this paper was supported, in part, by a grant from the Center for Studies of Metropolitan Problems, Division of Special Mental Health Programs, Alcohol, Drug Abuse and Mental Health Administration, of the National Institute of Mental Health (Grant #1 RO1 MH 31094-O1A1 MP); and by the program on Society and Its Physical Environment of the Center for Research on the Acts of Man.

A GREAT conversation is under way between nations, groups of nations, and large industrial organizations. The acquisition and allocation of energy resources is the manifest topic of discussion. Around this topic these actors are negotiating, first, their political relations and, then, their economic relations. The relations around these negotiations constitute an emerging energy social system. This social system is evolving from an older, more narrowly constructed system of economic relations. More precisely, the energy social system is enveloping and coordinating a variety of markets —a market for coal, a market for oil and its products, for fissionable materials and services for obtaining, shipping and processing those materials. An array of economic markets is being succeeded by a politically dominated social system around energy resources. A variety of social organizations around a variety of mineral resources is giving way to a more coordinated organization around the energy-relevance of those resources. The national and international roles of the principal actors interweave. Increasingly, their international political activities dominate their national behavior. This paper offers some documentation, some description, and some analysis of the emergence of this politically dominated energy social system.

From Market to Politically Dominated Social System

Physical energy has long been an organizing term in the natural and social sciences. Now, its meaning has been revised so that it becomes a symbol guiding everyday activity. A variety of physical resources which may move or change the temperature of things, or change a chemical structure, come to be considered together. The economic market in these resources has been highly segmented. Commerce in coal has organized itself around producers of bituminous, anthracite and lignite, and around consumers of coal for heating homes, for electric generation, and coke for steel among other uses. The significance of coal as a source of energy now towers above its other social uses.

Similarly, a whole panoply of mineral and other resources have been subsumed under the shared attribute of energy. Their differences in other characteristics shade into the background. Such disparate materials as oil, coal, tar-sands, bio-mass, and fissionable uranium come to be considered as alternative ways to obtain energy. The socially disparate groups organized around the mining, manufacturing, conversion, and transport of these materials are juxtaposed and included as social components of a wider energy social system. These component social groups might be assembled with reference to the relations of economic exchange among the groups. That would indicate a unified energy market. An energy social system is bound by economic relations but, in addition, relations of kinship, religion, and polity play a direct role in an energy regime.[1] The energy social system, encompassing a variety of institutional relations, is dominated by the polity. The direction of activity in the system is governed more by the

1. An economic system is part of a social system. It consists of those social institutions engaged in the acquisition of resources for a society and the allocation of those resources among social units. Talcott Parsons and Neil J. Smelser, *Economy and Society* (New York: The Free Press, 1956).

relative power of the actors than by economic, religious, or family norms. In fact, these latter become subordinate to political considerations. Further, it is the international polity which sets the terms to which intranational polities and other institutions conform.

The change from market system to politically dominated social system may be dated from the moment that the major participants in energy negotiations become states rather than firms. At the time of this writing American private firms have not yet legally relinquished this authority to the state but the practical influence of the state is increasing steadily through its control of import duties and taxation, its willingness to exert military and diplomatic influence during negotiations, and in its representation on international bodies concerned with energy. The value of energy and the actions acceptable to assure its flow, are established by the relation of energy to national welfare. The value that might be expressed through a market process of supply and demand becomes secondary. States negotiate for energy in the protocol of diplomatic relations rather than simply seeking a contract of sale or of concessionary rights. Diplomatic considerations are extra-systemic or situational under a market regime. Here, they are incorporated within the system.[2]

The energy social system notion is a cognate of the physicalist "global energy system," identified by W. Häfele and W. Sassin.[3] It also bears a family resemblance to Immanuel Wallerstein's "modern world system." Wallerstein would, however, hold that market integration, rather than subsumption of markets under the polity, is the controlling function of the world system.[4] Also, the term "global" or "world" may not yet be appropriate for a politically dominated social system cleft internationally by major power blocs.

The energy conversation among nations converges with older conversations conducted among nations. Questions of security and of trade agreements have been at the forefront. Three characteristics of economic action have colored traditional market negotiations. First, economic action emerges from an aggregate of interactions among buyers and sellers. Centralized decisions are considered as setting conditions for this more fundamental process. Second, attributes of concrete resources are abstracted to be treated as commodities and bid for according to their value in exchange. Finally, economic action involves the most secularized of human relations. Any moral constraints imposed on these relations are extra-systemic influences.

Subtly over the past years, the political economy of energy has given way to the economic politics

2. This arrangement is a system because of the nature of the interdependencies and the definable boundaries of its activities. The empirical economic interdependence of the several energy resources has long been noted. In country after country, for instance, coal has been displaced by oil on the basis of prices and the economically relevant aspects of transportation, labor, and environmental conditions. Now, considerations of the political control of oil supply and the political vulnerability of supply loom large alongside the economics of supply. Because of this re-evaluation, we find ourselves seeking to convert electric utilities to coal which, just a few years ago, adapted themselves to oil.

3. W. Häfele and W. Sassin, "The Global Energy System," *Annual Review of Energy*, vol. 2 (1977), pp. 1–30.

4. Immanuel Wallerstein, *The Modern World-System* (New York: Academic Press, 1974).

of energy. As the discussion becomes political it changes in these three respects. Political actors are delegates of their national communities. Decisions are immediately macrosociological, collectively binding, instead of an emergent of many individual decisions. The physical resource is not treated simply as an economic good but as an element in a complex of power, an element in control over the environment and command over the behavior of other actors. Finally, political action is guided intrinsically by substantive national goals which, in turn, rest on what that nation values. These values reflect its religious and social philosophical culture.

International energy decisions sometimes seem to take on a life of their own, almost independent of the system of international relations. They are, however, best considered as part of regular diplomatic activity. At the moment, they do not regularly dominate that activity. We will know that the energy system dominates the remainder of international relations, at least on a bilateral basis, when the first energy military action occurs.

THE SYMBOLS OF THE ENERGY SOCIAL SYSTEM

The energy social system is constituted by the interaction of social organizations. Social groupings which might otherwise not intersect become empirically interdependent by participating in energy activities.[5] These include energy producing organizations, the governments of national states, industrial and household consumers of energy and advocacy groups among others. They may become conscious of one another, though this is not a requirement for their inclusion in the system.

The new American governmental organization for energy reflects the existence of the energy social system. A variety of government agencies along with their constituencies concerned with energy resources have been brought under single management. This social system encompassing groups around the various mineral resources and associated conversion and end-use processes achieves symbolic reality in charts showing the changing relative uses of each energy resource—coal, oil, nuclear—and projecting these relations into the future. A well-known chart of this type shows the quantities of energy attributable to each resource flowing in from the left of the page and then flowing out from the right through end-uses such as heating and transportation. The interdependent abstracted energy values are the energy components of a variety of social organizations.[6]

5. The market economy traditionally brought together buyers and sellers who may have had little additional basis for associating. Territory and kinship have been the traditional bases of group formation. Common material and cultural interests become an additional, sometimes conflicting, basis of social organization. Environment, in general, and energy, in particular, become such foci of social organization.

6. Data on components of the energy social system were scattered about at a time when it was not a unified system. As recently as 1972, when Joel Darmstadter compiled tables of U.S. energy consumption for the years 1920–70, he found it necessary to collect data from the Bureau of the Census's *Historical Statistics of the United States, Colonial Times to 1957*, from a U.S. Bureau of Mines circular of 1968 giving a national energy model for 1947–65, from the *Minerals Yearbook* at the Bureau of Mines, and a citation of FPC data from the *Statis-*

The ability to talk of energy in a unified manner is facilitated by a common measuring rod. Each type of fuel has its own qualitative categories—the degree/gravity measure separates crude oil into light (a higher proportion of gasoline obtainable at a given level of refining) and heavy (a higher proportion of asphalt). Coal burned for electric power generation may be expressed in tons of coal or kilowatt hours. Traditional physics suggests a common measure in terms of BTUs or calories. Since all energy eventually is degraded into heat, this measure offers the theoretical heat equivalent. On this basis, conversion factors are established for comparing the energy theoretically available from the various resources.[7] The common measuring rod becomes a social symbol when it tends to blend disparate resources on the grounds of equivalence in heat potential. They begin to be thought of as substitutable. The economist's expression of disparate goods and services in terms of the costs, with equal price, suggesting substitutability in the process of economic exchange, does not imply substitutability in use.

Coal and oil may be compared for production of electricity on the basis of cost and BTU. In making a substitution, however, technical changes are required at the power plant. Transportation arrangements change and air pollution control differs. Different communities of suppliers are activated. However, abbreviating the technical terms "substitutability on a matrix of exchange" or "substitutability for potential release of heat" to a social symbol of simple "substitutability" encourages the creation of arrangements for substitutability in use. Effective substitutability of end-use may be promoted, where it was not previously apparent, by changing technologies and by changing the producer communities. Thus, discussions are opened on various "energy systems": solar central power employing a land based solar collector or photo-voltaic collectors by satellite, or methane production in anaerobic vats, or a hydrogen economy in which hydrogen, perhaps collected by electrolysis with electricity from nuclear fission, is burned as a propellant for transportation.

The term substitution conjures an image of replacing a physical module and not otherwise affecting the structure. Each of these approaches invites its own set of social actors. A new set of social actors changes the character of the remainder of society. The very attempt to think in terms of the development of these systems has evoked promotional groups in society—promoters of electric vehicles or solar energy. Their work is often accompanied by a "technology assessment" and only rarely, and almost always inadequately, by a "social impact analysis."

The systemic relationship presented in charts and computations

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tical Yearbook of the Edison Electric Institute of 1970. Joel Darmstadter, "Energy Consumption Control, Trends, and Patterns," *Energy, Economic Growth and the Environment*, ed. Sam H. Schurr (Baltimore: Johns Hopkins University Press, 1972), pp. 155–223.

7. Europeans assign crude oil a caloric value per ton 1.43 times that of coal. The British, with a different grade of coal and technology assign a factor of 1.7. See Richard L. Gordon, *The Evolution of Energy Policy in Western Europe: The Reluctant Retreat from Coal* (New York: Praeger Publishers, 1970). The total U.S. consumption of energy may be expressed in terms of quadrillion (10^{15}) BTU's or "quads"—irrespective of the particular resource "mix" being consumed.

and ideas of the substitutability of energy forms based on a shared dimension would not necessarily imply the existence of an empirical social system. The energy social system may be merely the phantasm of energy accountants, policymakers, and theorists. The evoked social groupings, however, become relevant for one another and are a real social event. The integration of government energy activities is a real event. Oil companies, which also market gas, acquire interests in uranium, coal, and even support developments in solar energy and describe themselves as energy companies. This horizontal integration of oil companies is a real event. They create social relationships, primarily economic and administrative, around the general concept of energy.

The substantive nature of the interrelationships depends on a variety of circumstances. Households shifted from the horse to the motorcar for transportation. Animal husbandry and automobile manufacturing did not, thereby, become part of a single social system, though industry and agriculture were related in a new way.

The economic market integrates social groups around exchange. It also has a disintegrative influence on the relation of people and things, usually grasped in terms of the idea of alienation.[8] The energy social system may have alienating consequences similar to those attributed to the economic market. After all, it evaluates a variety of material resources and organizations around these resources with respect to their significance for relations of power. This too is an abstracted attribute much like a commodity relation. The value of power is, like exchange value, also established culturally by the activities of obtaining and allocating it, and with reference to the prevailing technology. However, when people are brought together politically around the material resource, their involvement with one another is more holistic—both in cooperation and in conflict. People may be nasty and brutish to one another, but are not psychologically alienated since power, inherently, defines substantive relations between them. A political relation becomes alienating in a case such as slavery in which the slave becomes a tool in a power game. We have, then, the conditions for war, not for conducting diplomacy.[9]

The energy social system serves

8. To revive a concern of Marx, the linking of human activities from an economic perspective may be to treat labor and goods produced by that labor as commodities, detached from the producers. Their value is not determined by their use but by relationships of exchange. Commodities are attributes of things and persons abstracted from the more palpable texture of human relations.

9. The more limited markets in energy resources had already established social systems in the production and consumption of energy which did not coincide with bioecological systems. The disjunction produces what economists call nonpecuniary externalities—the depletive wastes or irrevocable use of resources. Interference with ecological cycles as a result of fuel use builds up noxious wastes which is termed pollution. See Gerald Garvey, *Energy, Ecology, Economy* (New York: W. W. Norton and Company, 1972). The energy social system, as a political system, is more extensive geographically than was the market. The danger of its being detached from the physical ecological cycle is greater. In a political system, however, those affected by the environmental externalities may exert influence through the environmental movement in addition to market mechanisms. The United Nations and the U.S. government environmental agencies exert political influence to restrain the external impacts of energy production (e.g., strip mining) and energy conversion (e.g., air-pollution).

the wider society economically by assisting it in acquiring a resource needed for its maintenance and growth and contributing to its security. The various participants in the system have their roles to play. Governments and multinational companies negotiate the allocation of energy resources. Specialists in knowledge and ideology provide its intellectual and normative resources —the rational and nonrational components of its culture. Environmental movements, politicized households, legitimate the government responsibility while pressing government to increase control over their industrial neighbors. This paper will describe some of the international and national actors in the energy social system. Given the limitation of this article, we do not proceed much beyond a simple taxonomy of actors to a dynamic model of their relationships. As important as the latter is, its meaningfulness rests on the correctness of the taxonomy.[10]

The mass media, by the nature of their reportage, enhance the sense of drama in the energy situation. The media also use the term energy quite freely as an organizing concept. As a consequence, they promote acceptance of the notion of an energy social system. The press has not been loath to report conflict internal to government and some shortcomings of government regulation of oil companies. In this way, the media may undermine the credibility of the "crisis." Public opinion polls, following the 1973 oil embargo, reflect this doubt. Nevertheless, this very reportage dramatizes the energy social system as an encounter among major world political and economic actors.

THE INTERNATIONAL ACTORS

The shift from economic to political dominance is a phenomenon of the 1970s. The conversation was couched in economic terms as long as privately owned oil companies, concessionaires in oil producing states, were the rule. The oil companies set the prices, shipped, refined, and marketed oil. Their vertically integrated character facilitated administration of the oil flow and enabled them to shift profits to the production phase. By refining and marketing at marginal, if any, profits, they controlled entry into the field and minimized their exposure to taxation in their home countries. All of this could be conducted within a traditional international market framework.

10. Energy studies have been a principal program element at the Center for Research on the Acts of Man, a social research organization. Since 1971, research has been conducted on various components of the energy social system. Most of the effort has been exerted to document, quantitatively, the interdependencies among attributes of the actors and actions which are described taxonomically in the present paper. For these, see Samuel Z. Klausner, "Alienation in Ecological Perspective," *Alienation: Plight of Modern Man?* ed. William C. Bier, S.J. (New York: Fordham University Press, 1972); "Energy Rationing and Energy Conservation: Foundations for a Social Policy," *Energy Systems and Policy*, I:2 (1975), pp. 119–141; "Energy and the Structuring of Society, Methodological Issues," *Human Behavior and Environment*, vol. 2, ed. Irwin Altman and Joachim F. Wohlwill (New York: Plenum Publishing Corporation, 1977); "Household Organization and Use of Electricity," *Energy Policy in the United States, Social and Behavioral Dimensions*, ed. Seymour Warkov (New York: Praeger Publishers, 1978); "The Social Impacts of the New York Blackout of 1977 and What Other Cities May Learn from It," unpublished (1978); Robert H. Edelstein, "Modeling Society and Energy: Theory and Method in Assessing the Social Effects of Energy Policies," unpublished (1977).

Over the past years, the state control of oil resources has, in many countries, superseded that of the international oil companies. Home governments of the oil companies were invited, usually informally, to exert influence on behalf of the companies. With government facing government, the "marketing" discussion proceeded in the light of the needs and policies of states. This situation was tailor-made for setting administered prices. Mason Willrich points out, the companies set the prices until 1971. By 1973, the companies were negotiating with OPEC on prices. After 1973, OPEC itself established prices as well as the rate of production.[11] The majors' practice of posting prices undercut free market processes. Posted price bears little relation to the cost of "producing" oil. Actual production costs have been under a dollar a barrel over the years. The price, conditioned by the perception of political interests, is limited by the cost of producing alternative energy supplies. This limit is not very immediate since such production requires commitment to development and a "tooling-up" period and the readiness to risk new competition by a sudden lowering of oil prices by the exporting nations.

OPEC is, itself, an international actor in a loosely confederated group of national actors.[12] By the time OPEC achieved its ability to set prices and determine production schedules, market advantages were but one of the bases for its decisions. OPEC representatives weighed their decisions in light of the diplomatic relations between their governments and with customer states. The United States did not persuade OPEC or OAPEC to restrain pricing by threatening to reduce demand or to move to alternative energy resources. These possibilities always lurk in the background but would not have been credible threats. After all the very increase in prices by the exporters would have been thought to be demand restraining and some in the exporting countries thought that production should be slowed in any case. On the other hand, military supply commitments for support of Arab political aims in the international arena, the security of Iran and Saudi Arabia, and commitments of technological development aid were significant incentives and the withdrawal of these were mild threats. A common interest in resisting Soviet penetration bound the United States and Saudi Arabia, but not Iraq, together. It is, thus, an error to classify OPEC as merely a producer's cartel, with the implication that, as with most cartels, it will dissolve in the differing economic interests of its partners. It is a political coalition in which the state of the energy market is a consideration. It will stand or fall on wider political grounds. OPEC and OAPEC are actors in the world energy social system not merely in the world energy economic market.

Energy considerations have not been either the exclusive nor, at all

11. Mason Willrich, *Energy and World Politics* (New York: The Free Press, 1975).

12. OPEC was established in 1960. By 1975, its membership included Iran, Iraq, Kuwait, Saudi Arabia, the United Arab Emirates, Venezuela, Algeria, Qatar, Libya, Nigeria, Indonesia, Equador and Gabon. In 1968, Kuwait, Saudi Arabia and Libya established OAPEC, a parallel and sometimes cooperating organization. Membership in OAPEC was later extended to Algeria, Egypt, Syria, Qatar, Bahrain, Iraq and the United Arab Emirates.

times, the dominant factor in diplomatic negotiations between most of the exporting and importing nations.[13] Several examples are suggestive. As Mexico becomes an oil producing nation, its position on oil sales becomes leverage for advancing its position on traditional Mexican-United States relations of trade, investment policy, and population migrations. Oil consuming states may compete with one another and this competition is conditioned by wider diplomatic considerations. Increased consumption by the United States is a continuing threat to the ability of other nations to compete for supplies. Thus, the European Community has pressed the United States toward a more assertive conservation policy. The United States, for its part, has been careful to support allocations to other nations in time of shortage.

Though no purchaser's alliance has been stable, some restraint of competition among purchasing countries has been practiced in view of their broader interests. Oil consuming nations are exporters of energy technology and monopolize that ability in the nuclear field. Here, too, the decisions do not remain simply economic. Diplomatic negotiations around nuclear energy grew out of military concerns. Canada competes with the United States in the sale of nuclear reactors, pitting her heavy water against the American light water reactor. The supplies and services for reactors, and especially for light water reactors which require fuel enrichment, are outside the jurisdictions of those who seek nuclear energy for war or for peace. The raw materials, fuel cycle services, such as enrichment, fuel fabrication, and reprocessing, are monopolized by a few countries. The heavy water reactors, which use natural uranium, are not dependent on American enrichment processes. At the same time, it is easier to attain fissionable materials from the heavy water reactor. This raises a nonproliferation issue for the supplying country.

The near "expropriation" of the private oil companies and their replacement by states is a particularly forceful way of politicizing the energy social system because of the extraordinary dependence of consuming countries on resources outside of their jurisdictions. The security as well as the monetary and fiscal implications of this have led importing states to design policies to assure imports and, at the same time, to reduce their dependence upon them.[14] Japan is a striking example of oil dependence. In 1955, Japan obtained three quarters of her energy supply internally. In 1972, she imported three-fourths of the supply, 82 percent of that from the

13. The interests of the OPEC, and even OAPEC, differ in many respects. Iraq, a state hostile to Israel, broke ranks with the other Arab oil exporting states by expanding its output of oil during the embargo of 1973. Non-Arab countries sold oil to the Netherlands and the United States. This suggests a limit to the organizational stability of OPEC with respect to collective action. The purchasing nations also failed to take collective action in 1973. Members of the European community sought bilateral arrangements. The international debate, thus, tends toward negotiations between blocs but under stress breaks down into negotiations between individual states.

14. The Ford Energy Report, published in 1975, thought that holding oil imports to about 20–25% of our requirements would be an appropriate balance between independence and interdependence. By 1979, the figure was hovering around 50%. See also Joseph A. Yager and Eleanor B. Steinberg, *Energy and U.S. Foreign Policy* (Cambridge, MA: Ballinger Publishing Company, 1975).

Middle East. Much of a modern nation's wealth is in energy dependent "stock." A change in the energy regime may make some portion of a nation's buildings, especially those recently constructed, defective. A vast stock of machinery, including transportation equipment held by industry and by households, is energy dependent. The captive character of the purchaser almost forces free market imagery into oblivion. The "crisis" occurs with the realization that the source of energy outside the jurisdiction of the user becomes the subject of political rather than economic decisionmaking.[15]

ENERGY DISCUSSIONS WITHIN NATIONS

The new groupings

A series of smaller conversations is being conducted within nations regarding the supply and consumption of energy. The participants in these conversations include government, industry, households, advocacy groups, and intellectuals. The international political context of the energy social system has changed these relationships distinctively. Of the relations among participants, that between industry and households remains, at this time, predominantly an economic relation.[16] All of the other paired relations of industry to government, of advocacy groups and industry, and so forth, are tending to become primarily political.

Equity in the allocation of resources is part of this internal energy discussion. Equity refers to a correspondence between an actual allocation and some standard of a just distribution. The energy conversation itself is changing the definition of who is to be compared with whom on this standard. Traditional issues of equity between classes, aside from some concern about the income regressive impact of rising energy prices, have been muted.[17] Industrial labor and management have discovered a common interest in resisting those environmental groups opposed to growth—and, implicitly, to more sales and more jobs and material production. The equity issue now divides that part of society directly involved in industrial production from that engaged in the less energy demanding technical and service sectors.

Government consolidation

In international relations around energy, a government is representing its military, industrial, and community or household sectors' interest in reducing the vulnerability of

15. In international production, the seven largest oil companies are Exxon, Texaco, Gulf, Standard of California, Mobil, and two non-American corporations with operations in the United States—Royal Dutch Shell and British Petroleum. Banks, particularly Bankers Trust, Chase Manhattan, and Morgan Guarantee, are the major stockholders in these corporations. Robert Engler, who treats integrated oil companies as prototypes of the multinational corporations, observes that they find themselves becoming concerned with such internal national issues as Scottish nationalism and Canadian separatism. Robert Engler, *The Brotherhood of Oil: Energy Policy and the Public Interest* (Chicago: The University of Chicago Press, 1977).

16. Even here, though, the laws of neoclassical economics seem shaky. The demand elasticity of gasoline has not been marked. When gasoline prices rose ahead of inflation, consumption did not decline and it is not clear as to how much the rate of increase of consumption over time has been restrained by price increases. Between 1974 and 1978, real gasoline prices declined only to move ahead of inflation in 1979.

17. Samuel Z. Klausner, "Social Order and Energy Consumption in Matrifocal Households," *Human Ecology*, vol. 2, no. 1, 1979, pp. 21–39.

the energy supply. Its dealings are also affected by the activities of its own energy organizations, advocacy groups, and promoters of one or another energy conversion system. In preparing to negotiate, the state attempts to order its internal energy requirements, among other pressures which its internal actors exert, in a way that will strengthen, or at least not weaken, its hand in international diplomacy. Politicization of the international energy social system increases the role of government in the internal energy arrangements. Reciprocally, the particular array of energy constituencies in a society and the way they are organized and behave, conditions the participation of the state in the great conversation.

Consolidation of governmental energy activities is one of its responses to the task of balancing its foreign and domestic policies. Before the establishment of the Department of Energy, American government decisionmaking in energy was divided among over 30 different offices. In its time, this was not a sign of disarray. Each agency represented a constituency, usually around one or another resource. The Bureau of Mines in the Department of Interior has been concerned with mine safety problems and with mining in public and Indian lands. The Federal Power Commission and state public utility commissions have dealt with local utilities and their franchising problems and with the rates they charge customers. By abstracting the energy relevant aspect of these diverse social groups, the ground is laid for their participation in the energy social system. The emergence of an internal energy system is consistent with the international energy order and turns the state into a more conscious actor in that order—either facilitating or restraining its international moves.

A recommendation for coordination of materials policy was contained in the report of the Paley Commission in 1952. Yet, over the years Congress was reluctant to consolidate government energy activities.[18] The series of legislative proposals which eventuated in a successful bill establishing the Department of Energy languished for years in Congress. Within the government several departments sought to protect their roles and their special constituencies. Outside of government, interests in oil and coal producing states preferred to deal with a myriad of agencies, though this sometimes meant inconsistent regulation.

Even in the face of the so-called "oil crisis" of 1973, says Robert Engler, the government continued to delegate the task of insuring its fossil fuel requirements to the "private government of oil."[19] The latter determined national need, negotiated with the governments of producing areas, and handled global distribution. Conduct of what was conceived to be "business" by the private sector is consistent with American political and economic ideology. In fact, the oil companies had been supported and encouraged in their role over the years by

18. There is no objective guarantee that a coordinated policy will be better than an uncoordinated one for many purposes. Government coordination substitutes for market regulation. Nationalization, involving direct control of supply, is a possible extension of government policy coordination. Britain nationalized coal against a background of repeated labor/management strife and the reluctance of private industry to invest. On these issues, see Richard L. Gordon, *Evolution of Energy Policy*.

19. Engler, *The Brotherhood of Oil*.

government tax credits and other benefits. Besides, at that time the government did not possess the means to act.

The oil companies, for their part, did not find their quasi-governmental burden easy. These were not normal economic arrangements but politically motivated policies. They had to balance relations with the states in which they had production concessions against their relations to customer states. At the same time, they considered their relations to their competitors. Thus, they did not hasten to build new refineries to handle increased production. Among other things, this would have meant serving those competitors. Also, their profits were in production, not in refining or marketing.

The government role, as reflected in the process of consolidation, increased. Yet, government consolidation has never quite made it totally independent of the oil companies in policy formation. The government has continued to be dependent on the oil companies for data about petroleum and gas discoveries, production, and reserves.

The Project Independence Report in 1974 anticipated the political consolidation in its recognition that the reduction of the vulnerability to disruption of imports is at the heart of the energy independence question. The stated intention of the policy recommended was to analyze an overall energy system, employing a cohesive framework with attention to production of oil, gas, coal, nuclear, shale oil, solar, and geothermal energy. While proposing an energy integrative perspective, the instruments of control were still thought of almost entirely in economic terms. The energy problem was to be viewed in the context of capital, manpower, equipment, materials, transport and waste, and with proper attention to meeting environmental standards.

The intranational conversations showed the effects of the international conversation. The national states control the rate at which energy resources flow over national boundaries by direct political action, such as an embargo or by import controls. They limit the level of imports by regulation, licensing, and taxation. These rates of flow are also affected by technical considerations, such as the capacity of refineries, storage capacity, or the extensiveness of transport facilities, items within the policy capacities of companies. The delivery of Alaskan oil to the West Coast has been influenced by such technical factors. The distribution of resources within the country, and thus the rate of end-use or consumption, is a function of these rates of flow in association with internal social structural conditions. The social structure of the household is a factor affecting the distribution among households.[20]

One mechanism by which the international aspects of the system influence the internal aspects is by acting through a national government. Politicized international energy relations draw in governmental agencies. The government's face to the outer world is as diplomatic negotiator. Its approach to its internal society is as regulator. The regulatory act may engage market processes, the myriad of individual and organizational relations of exchange. The outcome departs both from free market assumptions and

20. Samuel Z. Klausner, "Social Order and Energy Consumption in Matrifocal Households," *Human Ecology*; Dorothy K. Newman and Dawn Day, *The American Energy Consumer* (Cambridge, MA: Ballinger Publishing Company, 1975).

from what one would anticipate from a command structure that was both highly legitimate and rigid. Manifest policy outcomes almost always fall short of policy goals and, in addition, involve unanticipated secondary effects. Officials respond by new corrective policy initiatives. These, too, encounter social structural, including market, conditions and so continue the cycle.

CONSOLIDATION AMONG DOMESTIC SUPPLIERS

Domestic suppliers and convertors of energy have also been consolidating into umbrella organizations. Such organizations attempt to constrain certain government actions not seen as in the interest of the suppliers. This consolidation also mobilizes the sector behind government, supporting its foreign policy struggle. With seventy-eight percent of the generating capacity investor owned, the electric utilities provide an example of the public and private sectors.[21] The recently organized Electric Power Research Institute brings together the Edison Electric Institute, the TVA, the American Public Power Association, elements of the Department of the Interior, and the National Rural Electric Cooperative Association. It is, thus, a forum for private and public officials. This is a form of political action on the part of economic groups.

The image of business coordinated behind government should not be carried too far. American industry, aside from the energy producers and convertors, is becoming an oppressed "class" in the energy social system. Automotive manufacturers, for instance, see sales threatened by rising energy costs and look askance at the profit statements of oil companies. The Environmental Protection Agency and the Department of Energy become arenas of conflict between government and industry. The role of industry in the system is highly significant and complex, especially in those cases of manufacturing firms operating internationally.

Businesses have an incentive to define themselves as energy businesses in order to qualify for the major shift in capital toward energy. John McLean foresees capital investment in energy of $30 billion by 1985 as compared with $42 billion in all manufacturing and public utilities.[22] Home insulation now becomes an energy conserving business, contributing to reducing vulnerability to interruption in oil supplies and is thus drawn into the energy social system.

THE EFFECT OF INTERNAL POLITICAL ECONOMIES

The energy policies of states vary with the political form of the national society, type of industry, technology, and availability of resources. Despite differences, in nearly every case the internal discussion has become increasingly centralized and politicized. The United States is not alone in consolidating the governmental component of the energy social system.

France, for example, is increasing its efforts to develop domestic refining capacity and has established

21. Howard P. Allen, "Electric Utilities: Can They Meet Future Power Needs?" *The Annals of the American Academy of Political and Social Science*, 410 (November 1972), pp. 86–96.

22. John G. McLean, "The United States Energy Outlook and Its Implications for National Policy," *The Annals of the American Academy of Political and Social Science*, 410 (November, 1972), pp. 97–105.

a state-owned integrated oil company. The Netherlands is emphasizing exploration and development of natural gas in the North Sea through a private/public company. Germany, previously dependent on the international oil companies, is increasing government control over the oil industry. Italy, which has almost no major energy resources, has established a National Gas and Oil Group. Japan has increased national control over acquisition and allocation of oil and is attempting to diversify its sources of energy through the Japan Petroleum Development Corporation, a wholly-owned government corporation. The political structure of a country affects the economic and political strategy by which the centralized control of energy consumers is implemented. The common theme of centralization with variations responsive to national conditions has been described with respect to Brazil, Hungary, Japan, and the United States.[23]

More than half of Brazil's energy is used in the household and commercial sector. Eighty percent of its oil is imported. Brazil's state capitalism allowed it to centralize allocative activities in 1953, in part, by establishing Petrobas, a wholly-owned government firm which operates at all stages of oil production. The Brazilian government has encouraged conservation by lowering automobile speed limits. By mixing alcohol and gasoline, its dependence on imports is reduced. The additional cost of this fuel is justified by an overall political-economic assessment of the kind that governments, but not firms, can make.

Hungary, a liberalized, socialist economy instituted oil allocation procedures, including purchasing quotas for industrial users, limits on motor fuel consumption, and instructions to electric utilities to restrict the use of oil to peak loads. Hungary uses economic leverage such as raising the price of oil products for both enterprises and consumers and offering budget subsidies to those who conserve oil. Industries' earnings have been diverted from profits to investment, especially in domestic energy enterprises. Increasingly, investment decisions are made centrally rather than at the enterprise level.

Japan, too, has a managed economy of energy. The government announces economic goals following negotiations between public and private interests. It then shapes the economic environment in a way conducive to their attainment. Imported energy resources are made more expensive and exports encouraged by depreciating the yen. An informal incomes policy has reflected the willingness of the society to follow government planning and to help control inflation. The assumption by both parties that interests of private firms and households converge has made such policies possible.

The United States, while a regulated market economy, is not able to exercise the authority of the Brazilian or the Hungarian governments and does not enjoy the sense of common interests among its sectors which characterizes Japan. As described above, the medium of regulation has been primarily economic, with the possibility of rationing still in the future.

The initially federally sponsored American nuclear energy development program, a responsibility growing out of defense concerns, became a model for the internal role

23. Arthur W. Wright, "Comparison of Energy Policies: An Introduction to the Symposium," *Journal of Comparative Economics*, 2:2 (June 1978), pp. 95–96.

of the federal government. By classifying the early stage as a weapons rather than an energy program, economic market considerations became nil as vast sums were invested in the Manhattan Project. Other federal programs derived from conditions more peculiar to American economic and political arrangements. These include the regional or interstate energy programs such as TVA and other dams which are "sold," in part, for their hydroelectric potential. Concern with interstate commerce has governed the regulation of natural gas prices and now looms in discussions on future regulation of interstate electric power grids. In each of these cases, government agencies have intervened in relations among domestic suppliers and in the relation of suppliers to consumers.

The development of offshore resources is a recent and significant extension of the governmental role as mediator in domestic economic competition among powerful corporate actors, an activity assigned to the Department of Interior by the Outer Continental Shelf Lands Act of 1953 and, currently, shared with the Department of Energy. Traditionally, the government has controlled mineral development on federal lands, sometimes on lands ceded by treaty to Indians.[24] The federal government enters the offshore issue through its jurisdiction over the sea bed. The recent extension to a 200 mile limit, an adjustment negotiated with other nations as part of the law of the sea and adjusted with our own littoral states in the courts, establishes the basis for further federal involvement. The government then monitors competition in exploration and production by granting leases to selected companies. The internal conversation is, thus, influenced by a combination of international and national circumstances.[25]

The role of environmentalists also increases government political involvement. Lynton Caldwell writes of the need for political constraint of the free market in order to control the distribution of consumption and, as a consequence, reduce the general level of consumption. The freedom to buy energy or to use the environment, he argues, should be limited.[26] Sometimes members of government step outside of the government to act as its and the people's conscience in sumptuary matters. David Freeman has argued that the heart of the energy problem is in the wasteful and insatiable character

24. Rich Applegate, Malcolm F. Baldwin, and Robert B. Smythe, *A Scientific and Policy Review of the Draft Environment Impact Statement*, "Crow Ceded Area Coal Lease Westmoreland Resources Mining Proposal," Washington, D.C.: Institute of Ecology, 1973.

25. The law of the sea or ownership of the sea bed has been an issue in international conflicts over offshore oil and gas exploration. North Sea exploration and development required agreement between Britain, the Netherlands, and Denmark. The contradictory or conflicting claims of China, Taiwan, Japan, and Viet Nam to areas under the China Sea, or between Greece and Turkey over locations in the Aegean are not so quickly resolved. See Mason Willrich, *Energy and World* Politics. Environmental impacts on the coastal waters and on the shores are of international concern and involve United Nations agencies. The establishment of international standards regarding ocean pollution, for instance, is an agenda item. At the moment, only the flag state may take action against tanker polluters, but their willingness to do so rests on wider diplomatic interests.

26. Lynton K. Caldwell, "Energy and Environment: The Bases for Public Policy," *The Annals of the American Academy of Political and Social Science*, 410 (November 1972), pp. 127–138.

of our energy demand. He pointed out that this is in conflict with our limited ability to expand the supply.[27] This pragmatic rationale replaces the traditional stricture against gluttony as a referent for conscience.

The combination of a sumptuary stricture and a call for its enforcement by the polity implies a governmental rationing program. Excepting in time of war, such approaches have been familiar as a socialist initiative for government regulation. Traditionally, rationing has been rationalized as a way to assure allocative equity for the worker, or the poorer classes, under conditions of scarcity. These spokesmen for rationing are representatives of the middle classes within a capitalist framework.

THE GOVERNMENT AND HOUSEHOLDS

The relationship between households and the government has had two faces—that in which households are consumers and that in which households are political actors. Government relates to households as consumers in the context of energy rationing and conservation programs. The environmental and energy social movements are the political expression of households.

Rationing and conservation policies

The levels of energy consumption, in general, the levels of consumption of specific fuels, the occasions or purposes of consumption, and the right of each social class to consume are controlled by social rules. These rules are not enacted but evolve as a way that society governs its relation to its environment. Ordinarily, the rules are not explicit statements about energy consumption. They are, rather, expectations that persons or organizations will engage in certain social activities which, indirectly, involve an energy demand. The amount of energy demanded by these activities depends on the way they are arranged with respect to each other, the social structure, and by the technology selected.[28] Such structural arrangements include the relative locations of household and worksite, the division of labor in households, and the way technology is distributed among roles. Since energy is, by and large, provided by market processes, income and price factors affecting the command over market rights, mediates between the socially structured activities and actual energy consumption. Energy conservation and rationing programs insert governmentally enacted rules in order to modify the activities and, thereby, the energy consumption level and pattern.[29]

Conservation is a form of administrative rule making designed to re-

27. David Freeman, *A Time to Choose: America's Energy Future* (Cambridge, MA: Ballinger Publishing Company, 1974).

28. Samuel Z. Klausner, "Alienation in Ecological Perspective," and Robert H. Edelstein, "Modeling Society and Energy."

29. In 1973, the groundwork was laid through the proposed National Energy Petroleum Act, and its legislative sequels, for a mandatory and voluntary rationing and conservation program. At the same time, a proposal was offered to monitor rationing by a 15 member National Energy Emergency Advisory Committee. The array of its 15 suggested members, each defined as representing an interest group, gives the government's perception of the relevant actors. These include producers, refiners, transporters, and marketers within the energy industry, and the transportation sector, industry, small business, agriculture, as well as environmental activists, and representatives of state and local government and consumers.

duce the overall level of consumption. It may have an allocative effect as, for instance, when it directs business to the home insulation industry, and, perhaps, away from the recreation industry. Rationing involves allocative rules for a given amount of a resource. Rationing may be used as a conservation strategy.

Rationing and conservation programs derive their names from what Aristotle felicitously called "final cause," the aims they are intended to accomplish. Conservation policies have been marginally effective. Rationing policies were planned during the First World War but only implemented seriously during the Second World War. They may have made some contribution to the war effort. As administered, the policy was disruptive of government operations and promoted criminality among the governed.[30]

One reason for this has been that, historically, rationing has been conceived in terms of commodities rather than of the social activities in which the commodities are embedded. This misconception, a semantic malapropism translated into organizational form, has resulted in cumbersome administrative requirements. Wartime programs were eventually modified in terms of use priorities—first medical, then governmental, then business, and commercial.[31]

Conservation and rationing programs may concentrate on commercial organizations which mediate between producer and consumer. A well documented case of government intervention affecting energy supply and consumption is that of the regulation of the price of natural gas.[32] The intervention has been in the market relations, specifically, in controlling terms of the sales contract.[33] The Federal Power Commission received authority to regulate interstate commerce in gas for resale by the Natural Gas Act of 1938. The regulation was not designed to control production, but to regulate prices paid by interstate pipelines, the major initial purchasers of gas. By the late 1960s, pipeline companies virtually dominated the market.[34] The govern-

30. Samuel Z. Klausner, "Energy Rationing and Energy Conservation."

31. By phrasing these rules technically, the government appears to remain neutral with respect to the social activity being curbed. The individual has the freedom to establish a personal priority of activities for use of a gasoline ration. This freedom is elusive and illusive since individual choices are conditioned by the choices of others. A speed limit, as a conservation strategy, does not appeal to the freedom to prioritize. It is not an allocative but is a boundary rule which reduces the range of choices of speeds or, in the aggregate, reduces the dispersion around the mean. A truly allocative rule might permit a person to average 55 mph, choosing when to cruise slowly and when to hasten, or in the aggregate, if averaged across all travellers, commercial travellers could then hasten to their destination and save wages while Sunday drivers could enjoy a slower ride. In fact, the speed limit, as a technical factor, is selected as an easy reference for monitoring, if the state chooses to enforce it. See also, Samuel Z. Klausner, "Energy Rationing and Energy Conservation: Foundations for a Social Policy."

32. Keith C. Brown, "Introduction," in *Regulation of the Natural Gas Producing Industry*, ed. Keith C. Brown (Baltimore: Johns Hopkins Press, 1972), pp. 1–7.

33. The general terms of contracts are governed by contract law with the state as guarantor of the terms. The parties enter the stipulations applicable to their case. Regulatory law, a form of administrative law, affirms the interest of government, and of the community it represents, in some of the private contractual stipulations.

34. Clark A. Hawkins, "Structure of the Natural Gas Producing Industry," in Keith C. Brown, ed., *Regulation of the Natural Gas Producing Industry*, pp. 137–168.

ment regulatory effectiveness was limited by this monopsony as well as by the near monopoly control of a few producers. Only sixty percent of the market has been interstate; the other forty percent, the intrastate sales, are outside of federal jurisdiction.

Most gas production is inelastic with respect to price since it accompanies oil production; thus, one of the ways the companies resist regulation is by limiting exploration and production of both oil and gas. The regulatory issue spills over into interregional conflicts. The producing states, principally Texas and Louisiana, have feared that, under regulation, they are being robbed of their resources by the Northeastern industrial states. At the same time, regulation permits them to attract industries with the promise of plentiful, if more expensive, intrastate gas.[35] Regulation affects interindustry relations. Early on, coal companies campaigned for deregulation of natural gas so that its higher price might make the more polluting coal competitive. As gas and oil companies acquire coal, competition between coal and oil may be reduced.[36] Thus, just to open what might seem to be a simple issue of commodity price control, exposes a dizzying set of social relations.

Environmental movements: politicization of the family

Collective movements enter the energy conversation as organized and incorporated voluntary groups. Informally, they are expressed through currents of public opinion. Their individual members are delegates of households and may even "take to the streets" in family groups. Historically, they root in environmental movements. They may support an energy system such as solar energy conversion, or reject an energy system, such as that around nuclear reactors. In both events, the condition of the environment has tended to be a central rationale for their position. These movements express conflict between the community of households and industrial forces. In this case, industry is perceived as endangering the health and property of members of households. The groups emerging in the energy social system around such issues as nuclear plant siting and hydroelectric projects tend to be a confluence of the earlier supporters of conservationism, including an urban middle class of rural origin and those groups in society who have been suspicious of the emerging dominance of science and technology.

Classifying these movements as environmental or energy movements is misleading. It is an attempt to characterize them in terms of a specific issue. The groups are drawn from definable social strata, both class and, to some extent, generational. Thus, the poor and the blacks, the politically disenfranchised sectors of society, are underrepresented in these movements. The energy question is to be seen as one of an array of issues in the conflict between the strata represented by these movements and other social strata. In this sense, it is much like the international situation in which, as mentioned above, the energy negotiation takes place in the context of the array of diplomatic relations between nations.

35. John Jay Schanz, Jr. and Helmut J. Frank, "Natural Gas and a Future National Energy Pattern," in Keith C. Brown, ed., *Regulation of the Natural Gas Industry*, pp. 18–55.

36. Ralph S. Spritzer, "Changing Elements in the Natural Gas Picture: Implications for the Federal Regulatory Scheme," in Keith C. Brown, ed., *Regulation of the Natural Gas Industry*, pp 113–136.

These movements are not revolutionary. They do not seek to change government. In fact, they consider government the proper arbiter of the energy question. The activities of these collective movements are designed to harness government, especially agencies such as the Corps of Engineers. They are a "loyal opposition" to some government policy. Government has contained them by channeling their concerns through the Environmental Protection Agency and the Presidential Commission on Environmental Quality, the intragovernmental advocates of their position and opponents of the forces represented by the Departments of Energy and Interior. These movements are by their nature political actors and their political relevance becomes increasingly important as they have been transformed from local protest to national coalitions. They face government and industry in the courts and in the streets.[37] In American society, they follow the tradition of voluntary movements organizing themselves with full-time paid staff and drawing funding from members' contributions and from foundations.

Their ideology calls for restraint on free market processes and, to this end, they summon the government to action. Nongovernmental students of the energy problem have become articulators of the ideology of the environmental movement. Relative to other voluntary movements, intellectuals are over represented in the organizational leadership and among nonorganized sympathizers.

Households are concerned with the personal safety of their members. Consistent with the household base of the environmental movement, polls report females to be less interested in supporting nuclear development than are males. Perhaps males respond more as members of industrial organizations concerned with the viability of those enterprises. Traditionally, households and workplaces, including unions, have integrated around the social issue. As the workplace increasingly becomes a "war industry," an element in the national struggle for energy resources, this alignment is weakened.

Environmental and energy concerns are inextricable. Energy conversion disturbs the environment and environmental enhancement involves more efficient or less energy use or energy used elsewhere. As Garvey points out, externalities are not mere random distributions in the market allocation of goods and bads, but transfer costs and benefits from one special public to another.[38] The energy/environment concern reflects a conflict among social groups.

Most environmental effects are local. This is true in the extreme case of noise pollution, but also is the case with air and thermal pollution, and with respect to the hazard of nuclear reaction. The locality may be highly populated, such as the eastern megalopolis under a cloud of automobile exhaust. The environmental movement has cut across these local concerns. Having organized on a national, even an international, basis the ideology has referenced wider ranging environmental impact such as the global greenhouse effect due to increasing amounts of CO_2, the concern with chemicals that move through food chains by surprising and uncharted vectors, and with the radioactivity of a nuclear detonation.

37. David Sills, "The Environmental Movement and Its Critics," *Human Ecology*, 3:1–41, 1975.

38. Gerald Garvey, *Energy, Ecology, Economy* (New York: W.W. Norton and Company, 1972).

The focus of this paper has been on the energy conversation internal to the United States. The energy social system also affects life in the oil exporting countries. The internal problems of the consuming countries are phrased in terms of inflation, reduction in consumption, and other stress terms. The internal state of the exporting countries is couched in terms of affluence, a seller's market, and the investment of petrodollars. A sudden increase in wealth is as destabilizing as a sudden impoverishment. The impact of the international relationship must be more severe for Saudi Arabia, Iran, Iraq, and other small nations than for the United States if only because of the disparity in size of population and level of economic activity.[39]

The command over vast funds by a small group must, at the very least, divert their lives to the management of commercial matters, increase their participation in the impersonal world market. The development of an educational and industrial infrastructure in these countries cannot but help to challenge traditional constraints on their lives. There are bound to be distributive problems, lack of equity between kinship groups, or the more typical emergence of a middle class around the opportunities afforded by commercial management occupations. This may abet secularization. To the extent that change is contained in and by traditional Islamic life, and to the extent that Islamic law maintains its legitimacy, these forces may be blunted. The contrary example, Iran, has already been noted.

THE SCIENTIFIC AND PROFESSIONAL COMMUNITIES

Mention was made above of the role of intellectual leadership in articulating the ideology of the environmental movements. The government also engages the scientific and professional communities, a relationship now characterized better as mobilization than as recruitment. Research and development efforts of the government focus on technology, particularly the technology of energy supply.[40] The overriding image of this work is of the energy system as a physical flow, and of the technical factors affecting the rate of that flow rather than of an energy social system.

An army of intellectuals has been withdrawn from creative research to document supply and consumption data, to assess reserves and demand at various prices, and to project these into the future. Too many economists and physical scientists become scorekeepers and inventory takers of the energy social system.

Students of the energy social system, both within and outside of government, contribute not only to its knowledge base but also to its ideologies. The penchant for scenarios reflects this ideological drive. Typically, energy future scenarios state program elements far too parsimoniously and concretely to be

39. Former Secretary of the Treasury, George P. Schultz (cited in Yager and Steinberg, *Energy and U.S. Foreign Policy*) states that the oil revenue of some 71 billion dollars would not appreciably change the total picture of the industrial countries in which capital formation is $700 billion and the total value of stocks and bonds exceeds $3 trillion. This does not, however, gainsay local effects.

40. The nation has witnessed an explosion of energy contract funding by government. Contractors have not proliferated as fast as the funds for contracting because of the tendency toward centralization among these producers of knowledge and ideology.

realistic. Yet, these skeletal futures support overriding rationales for current energy activities.

The debate on "growth" versus the "stationary state" as desired futures has a utopian function for the energy social system. The formulation of both of these alternative futures is consistent with the rational culture of the energy social system. Both projections are considered goals attainable by planning. The projections are utopian for four reasons: first, the means to change significantly the rate of growth of energy consumption are not available. Further, the United States is not a centrally planned society and will not be unless and until one of the more dire futures is upon us. Third, most of the future growth in energy consumption will be in China, the U.S.S.R. and Third World countries. Finally, part of the thrust toward growth in the United States is dictated by security requirements. The discussion, therefore, is more expressive than instrumental, functioning as a national rehearsal, much like a civil defense program or a fire drill.[41]

This last assertion is not a comment on the objective likelihood of the alternative outcomes. Its intent is to point out that the debate contributes more to the social organization of society, as it divides itself between those desiring either alternative, than it contributes to the realization of growth or a steady-state.

Herman E. Daly defines the steady-state in terms of a constant stock of physical wealth or capital and a constant stock of people or population with balanced rates of inflow and outflow.[42] Such a physicalist ideology is a caricature of the capitalist imagery of society in terms of monetary wealth. Political ideologies, more typically, concentrate on the nature of society and its institutions, on the net of human relations, and on the rules governing those relations.

A constant stock does not imply the halting of social and cultural change. For instance, Clifford Geertz studied wet rice culture in Indonesia and described a process in which in a given rice paddy, the constant stock, cultural elaboration of economic relations proceeded as population increased.[43] A change in occupational type from nomad to sedentary agriculturalist may involve a changed set of instructions, a changed way of using the stock, without

41. The ideological character of the discussion is reflected in Kenneth E. Boulding's "The Economics of Energy," *The Annals of the American Academy of Political and Social Science*, 410 (November, 1972), pp. 120–126. He associates the energy decision with "ultimate goals" and a moral call for modesty rather than grandeur. Boulding depicts a stationary state as a passage from the "adolescence of the human race to that maturity" in which energy can be devoted to qualitative growth in knowledge, spirit, art and love. The point is made in more secularized terms by references to the service society and by scenarios expressed in terms of future consumption of 70, 120, or 180 "quads." Apocalyptic language is not lacking. One scholar imagines the year 2000 with the world population at 6.5 billion, 4.5 times as much energy resource being consumed, electric generating capacity rising by a factor of 8, and a billion cars. Contemplating this, "sober questions" arise for him about the assimilative capacity of water, land, and atmosphere. Joel Darmstadter, "Energy Consumption Control, Trends, and Patterns," in Sam H. Schurr, ed. *Energy, Economic Growth and the Environment*, p. 198.

42. Herman E. Daly, *Toward a Steady-State Economy* (San Francisco: W. H. Freeman & Co., 1973).

43. Clifford Geertz, *Agricultural Involution: The Process of Ecological Change in Indonesia* (Berkeley: University of California Press, 1963.)

changing the available stock. Inheritance rules may, by changing the use of the land, change its value as capital. Daly's physicalist imagery allows for varying the population/land ratios and equating this with establishing a standard of living. The selection of a particular ratio requires, he says, an ethical judgment. This judgment is, supposedly, independent of the population/land ratio at any time.

THE FUTURE OF THE ENERGY SOCIAL SYSTEM

The energy social system "functions" to help regulate the relations of a society to its energy and economic resources. The consuming nations strive to secure access to resources. The exporting countries seek appropriate payment for resources. Direct and indirect military security implications are paramount in the negotiations over energy resources for both parties.

The international aspect of the system consists primarily of a net of bilateral arrangements arrived at in the context of diplomacy. Perhaps, as Willrich argues, that true multilateral engagement must await an international institutional framework —a structure in which agreements may be achieved among nations with areas of common interest and in which their conflicts may be played out among those whose interests collide. The conditions for stability in the relations among the states of the energy social system should be no different from those ordinarily defining stability among states, whether that be a balance of power, mutual deterrence, or economic interdependence.

The net of international relations sets the tone for relations among a nation's internal actors and the behavior and character of the internal actors influence the course of energy diplomacy. Government is a mechanism bridging international and national activity. Political dominance on the international side contributes to the politicization of the internal actors of the energy social system.

As the energy social system emerges, two effects are notable. First, axes of alliance and conflict among states and among groups within the states are being redrawn; and second, the supremacy of the capitalist market as a cultural institution, supporting an ideology around rational relations of exchange, is giving way to action in a political area. Society has been prepared to accept the displacement of the market because of its departure from equity in resource distribution and its inability to deal with externalities. International power relations which placed governments rather than firms in strategic positions in developing energy policy have been an overriding factor in subjecting market to political relations. The new ideologies revolve around security and social values which underlie the choice of national goals. The place of loyalties and religiously-based social solidarities is enhanced.

The axes of alliance and conflict are not fixed. Though not completely determined by energy resource jurisdictions, they cannot but shift as the world moves out of the current petroleum regime into one involving more coal and nuclear energy. Or, perhaps in the energy social system of tomorrow some special power may accrete to nations with a space technology enabling them to establish and service photovoltaic satellites which are stationary in earth orbit. Such a system would, like a nuclear regime, require a functioning international political order.

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Towards a Rational Energy Policy

By DAVID J. BARDIN

ABSTRACT: Environmental and energy policies are fundamentally concerned with resource allocation, resource enhancement, and resource constraints in light of the ultimate limitation of resources on the planet. The United States consumes thirty percent of the world's energy and a rational energy policy must deal carefully with choices designed to achieve the optimum public good. Petroleum is crucial to our economy and will continue to be for the next two decades. Our dependence on it involves not only financial and technical problems but also geopolitical considerations. We must devise ways to control our petroleum consumption, increase the efficiency of our use, move to develop alternate energy sources such as coal, nuclear, hydroelectric, and solar. We must review the tradeoffs between environmental protection and energy production, and we must consider pricing policy. The President's energy policy is aimed toward achieving these goals. We should implement it for the present while encouraging creative technological development of new and innovative solutions for the future.

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IT IS A pleasure to participate in a consideration of energy policy in the context of the environment, environmental quality, and our social response to the challenges of environmental quality. Intellectual and governmental issues concerning both energy and environmental policy are similar: they most fundamentally relate to resource allocations, resource enhancement, resource constraints with regard to the resources of the planet. They are also similar in that they cross economic and political boundaries which previously guided our understanding of government's role and other institutional roles in our society.

Further, we see an interesting organizational parallel—in our country and much of the industrialized world—in the recent creation of governmental bodies and legal and political mechanisms for dealing with environment and with energy as distinct subjects. Thus, in the last ten years, the United States has created an Environmental Protection Agency with responsibility for a very large portion of the environmental issues. A number of states have created even more far-reaching environmental agencies. Those in such states as New Jersey or North Carolina have even more sweeping environmental jurisdiction than does the federal EPA. More recently, and in parallel, a Department of Energy was created in Washington, with similar departments in a number of the states.

To discuss the movement toward a rational energy policy for this great country, a consumer of 30 percent of the energy used on this planet, Benjamin Franklin or Aristotle would have used the term politics. In the jargon of today it is called statecraft. Perhaps it is possible to revive the term politics in public discussion as it has remained in academic (cussion.

Politics is not entertainment. ' newscasters and pundits are ' statesmen. When the Presid announces an energy policy it i serious political expression government doing the business government, which is to govern; decide, to decide to act or refr from action in terms of a politi perception of public good, rec ciling conflicting private intere: and capitalizing the opportunit of the possible in the world in wh we live. There is nothing amus: about the energy world in wh we live.

We have inherited a conditi which demands urgent attenti Today new balances must be stru among the newly formed agenci Matters of energy, environme economics, and inflation cannot long delayed.

Following are a few backgrou facts. Last year the economy of t United States of America consum almost 79 quadrillion British therm units of fuel and renewable pow resources; the word for this co mon unit of energy is a qu: Energy consumption in the Unit States, then, was 79 quads. The r of our planet consumes slightly o twice as much. The petrole products, including natural g liquids, accounted for about 48 p cent of the total, almost half of c consumption. Of that, nearly h over 43 percent of the petroleu we imported. Natural gas account for over 25 percent; coal suppli over 18 percent.

This means that everything else uranium, hydroelectric power, oth solar forms (in addition to hyd electric), geothermal—supplied tiny fraction, some six quads out 79 quads. Hydroelectric and urani

were more significant in terms of our electricity consumption. Thus, nuclear power accounts for 13 percent of our electricity. But our economy is largely a petroleum, natural gas, and coal energy economy at this juncture. And indeed the world economy, like ours, is close to three quarters based on use of petroleum and natural gas. Petroleum is slightly more significant in other parts of the world than in ours.

The availability of petroleum will decline over a period of decades. The use of petroleum has risen dramatically through this century. If you look objectively at the intrusion and introduction of petroleum, you will see that it displaced coal effectively in market after market. After the second World War, first natural gas and then petroleum displaced coal here in the United States and in Europe. In time, other sources of supply will have to replace petroleum. These may be coal again, as a solid or eventually as synthetic liquids and gaseous fuel; or the direct conversion of solar energy to electricity may become feasible on a large scale some day as the passive use of solar is feasible today. It may be fusion. It may be the breeder reactor. It may be many combinations of these or other technologies.

But it will take time, a great deal of time. There is no prospect of this country, for the remainder of the century, not being heavily dependent on petroleum as a very large source of fuel and energy for our economy.

Even if the only problem were one of technology transition over a period of 30 to 100 years, it would be an interesting problem, a challenging problem, one with serious political, economic, legal, and social dimensions. For example, the new technologies involve, in so many cases, larger and larger capital investments, per unit of decision. Accordingly, questions would be raised about the ability of existing private sector institutions or existing government owned energy authorities to finance, to assume risk, to manage, to take responsibility for those investments.

Indeed, one of the most significant challenges and conclusions that may emerge from experience at Three Mile Island and the nuclear power plant on the Susquehanna River may well turn out—after we have addressed the first responsibility of the society for the public health and safety of citizens—to be financial problems. The ability of some organizations which have been involved in nuclear power to engage in such very large investments and responsibilities may have to be reviewed.

So, it can be said, if the transition from petroleum toward the newer more abundant, ultimately to the more renewable, forms of energy were the only problem, it would be a challenging one indeed.

There is, however, another problem; that is the geopolitical context in which the transition from petroleum to alternate fuel takes place. Our planet produces 60 to 65 million barrels of oil a day; in 1978 it was 64 million barrels a day. We in the United States consumed between 18 and 19 million barrels a day of that oil. The OPEC countries produced 30 million barrels a day of that oil—almost half—and consumed very little of it, about 2½ million barrels a day. The Persian Gulf alone produced 22 million barrels a day; over a third of the oil production of the planet and the lion's share of the exportable oil production. Therein lies a set of geo-

political risks related to the basic geography and the relative risk of instability in that region of the world. That is a remarkable risk for a great industrialized super power to be living with. The other super power does not share that risk. The Soviet Union and its Eastern European associates produce, at this time, just slightly more oil than they consume. That may change in time but it will change in fairly small quantities.

Moreover, there is little slack, little excess capacity in the oil producing economies and infrastructures of the world. Over the last five years most of the excess capacity has been in Saudi Arabia or in Iran. Now we may well be approaching a system in which the capacity that was available becomes engaged and committed; political, economic, and technological considerations limit the development of further excess capacity in Saudi Arabia, and there is little reason to hope for the restoration of substantial excess capacity, with the opportunity for world-wide competitive play that excess capacity would imply over the next few years.

All of this says that petroleum is crucial and will continue to be for years. We are now importing close to 9 million barrels a day and even though that is not nearly as large a fraction of our total energy needs as the imports are for other industrialized states, such as West Germany and Japan, we do not have a prospect for eliminating or closing that import dependence over the rest of this century unless very substantial changes are made in our energy regime. Indeed the challenge is to adopt and implement a set of policies which will hold that level to something in the range of 9 or 10 million barrels a day.

The National Energy Legislation of last year established several very important initiatives. First, the Congress recognized the President's view that conservation is the cornerstone of a sound national energy policy and proceeded to enact a series of measures that will facilitate, induce and reward—and in some cases require—conservation efforts in the residential, commercial, and industrial sectors. Conservation continues to be the cornerstone of our policy.

The Conservation Program has enjoyed some successes which ought to be noted, most dramatically in the Industrial Sector which is the most sensitive to price change. Since 1973, American industry has decreased, absolutely decreased, its use of energy by 6 percent while output in real terms has increased by 12 percent. At the same time the energy efficiency in residential buildings has increased by somewhere between 5 and 10 percent and half of the United States homeowners have added insulation while living in the houses they now occupy. In one out of 10 cases that insulation was added in the last year. The efficiency of home appliances has increased and has the average fuel efficiency of new automobiles.

Yet we can do much more. The President has outlined a series of short term measures which might save something in the neighborhood of one million barrels a day of petroleum. They include: mandatory settings for thermostats in public commercial and governmental buildings; voluntary state action to reduce gasoline consumption or mandatory state action in accordance with quotas that will be authorized by the President. The states understandably find that very painful, so

ne can look to state governments to ome up with alternatives.

Conservation measures include reater use of available coal and ranium capacity in power plants nd the transmission of that elecricity to displace oil fired plants, and reater production of natural gas to lisplace oil.

The legislation passed last year orrected a forty-year-old fragmentaion of the natural gas market into nterstate and intrastate components which was created by the Natural Gas Act of 1938. At that time natural gas supplies were so abundant that one could reasonably look for tapping those supplies both by long nterstate pipelines and by local ntrastate systems and reserve an ntrastate market distinctly so as to elp the economic development of he Texas Gulf Coast, Louisiana, Oklahoma, and other gas producing reas. That fragmentation of the narket sharply contravened the normal economic policies that have been reflected in the history of this epublic since the Constitution was dopted, the policy under the Commerce Clause of one great multistate market. The law that was signed last November finally unified he Balkanized natural gas market with the result that more gas is availble again in many consuming enters. The Environmental Protecion Agency will review the question of sulfur in fuel oil. EPA will conider the price factor in low sulfur uel oil when it decides whether to rant waivers.

Similarly, EPA will defer for one ear the required reduction in the ead content of leaded gasoline which was due to become effective on October 1 of this year. Deferrals eflect a balance between the need o protect health—particularly in rban areas, and with children—and the need to conserve energy. The EPA had been due to impose a restriction of an average of five tenths of a gram of lead per gallon of all gasoline; leaded and unleaded on the average. As of October 1, reflecting the latest health studies, it was concluded that this could be raised to eight tenths of a gram of lead per gallon and, in effect, allow us to avoid a reduction in available gasoline of 350,000 to 450,000 barrels a day which would have been the result of going down to five tenths of a gram. The oil industry has asked EPA for an even more liberal treatment which we conclude would have saved perhaps another 100,000 barrels a day. But balancing the health consideration and the latest studies that EPA made available, the balance will be struck at eight tenths of a gram. That will not affect, of course, the requirements to produce unleaded gasoline.

On the horizon for this year and the short term, the United States and its major associated industrial countries in the International Energy Agency have agreed on a 5 percent reduction in petroleum consumption to be achieved by curtailed demand or substitution of indigenous fuel so as to bring into better balance the demand of the industrialized world on the available exportable supplies of oil. The rapid growth of oil consumption has gotten out of line and strains the possibilities—political and economic as well as technical—of the exporting countries. Over the middle and long term, the anticipated growth in demand by less developed countries adds to the supply-demand strain.

This appetite for petroleum simply must be controlled and is finally being addressed through the agreement reached by our representatives

in Paris last month at a meeting with the other industrialized countries.

If one were an observer from Mars who came to look objectively at the national energy policies of the United States over the last decade he would have to—if he were judging by what we did rather than what we said—conclude that the United States energy policy is to consume and import more petroleum to solve every single problem we encounter in the energy field, whether coal strikes, natural gas pricing, or environmental constraints.

In case after case we seem to use more petroleum and to refine more petroleum in a way which consumes more fuel in the refinery to produce a higher octane, higher quality, a less polluting product, and so turn to more imports as the solutions for each of our problems. Indeed, only twice in the past ten years has there actually been any reduction in the percentage of our energy economy dependent on petroleum. Every year other than 1974 and last year it has gone up. It went down in 1974 in the wake of the embargo by a fraction of a percentage point and it went down last year by a tenth of a percentage point, if that can be considered a drop. One might wish to suggest that we ought to maintain that momentum, but can a tenth of a percent be considered momentum?

The commitment of the industrialized countries to reduce their demands upon the exportable oil supplies of the planet represents a first major policy step whose fruits are yet to be realized but whose expectation, implications, and demand are extremely significant for the kind of dialogue or conversation that we may see in the years ahead amongst the various states whose survival depends upon the stabilization of the world petroleum market.

Legislation passed last November provides new supply initiatives. The natural gas legislation corrected not only the fundamental flaw of a divided market for that source of energy, which accounts for a little over 25 percent of our consumption, but also allowed new, higher price incentives for natural gas. The fact is that over the postwar period, the low price for natural gas—first because of the vast abundance in the early stages of building the new pipelines to bring the gas from the Southwest to the consumer centers of the Northeast and the West coast, and later as a result of Federal legislation—has been the competitive force that held down energy prices more than any other factor. Low priced natural gas made for low priced coal and oil: cheap energy upon which America's economy grew. It was a successful stimulus for energy based consumption growth, but a stimulus we can no longer sustain in the face of global petroleum supply-demand relationships. The pricing policies of the Federal Power Commission over the last few years were stabilized in the legislation of last year that allows higher prices for natural gas, to be decontrolled only gradually. It is hoped we will see a smooth nontraumatic transition to decontrol. The Congress was unable to grapple successfully last year, however, with the pricing policy question for petroleum, the fuel which accounts for half of our current energy consumption and will continue to account for almost that much for some years.

Under the law, the authority to control petroleum prices will expire on 1 October 1981. Under that law, as of June 1st of this year, the President has discretion to implement price controls, or remove price controls, or alter price controls with

relative flexibility. He announced that he would use that discretion to achieve a phased decontrol of oil in this country by 1981 in a way that would minimize the inflationary impact in this critical year 1979 and give maximum attention to those aspects of decontrol which will have short term and long term supply enhancing effects on domestic production of crude oil.

During this year of relatively moderate decontrol, which will be accelerated as of January 1st of next year, the President will ask Congress to enact a tax, a windfall profit tax, on the oil companies so that half of the benefits they realize through decontrol will go to an Energy Security Fund to be used for public purposes rather than become the private profit of the oil companies. The result of the President's action on decontrol will be the end of cheap petroleum in this country no later than 1 October 1981. New energy sources, whether they are solar energy, coal, or garbage turned into steam or electricity, or any other will be competing not with subsidized petroleum fuel but with the world-price replacement cost of petroleum fuel. After all, every extra barrel that we want to use in this country turns out to be an imported barrel, which we subsidize today by averaging its high cost with price-controlled domestic oil costs.

Congress has the opportunity and the Administration will strongly work toward enactment of a windfall profit tax and achievement of an energy security fund which will accomplish three purposes. First, the fund will be used for payments to help the lower income members of the society sustain the brutal thrust of the energy price increases that are forced upon them. Second, the Fund will be used for mass transit expansion, particularly those quick expansions that could be realized soon, which will have two thrusts. It will help the individual American who can use that mass transit to overcome some of the costs of higher oil prices, and it will also help other Americans who cannot use mass transit since there will be more gasoline left over, less danger of supply interruption and less upward price pressure on that gasoline as a result. Third, the Energy Security Fund will be used to fund important additional development programs, some of them in the research stage, some of them very near the commercialization stage, to enhance the opportunity to introduce substitute fuel sources. If we do not start and start quickly on substitute sources, we simply will not have them ready in any reasonable measure when they are needed.

The President announced that progress had been made in government negotiations with the Mexicans with regard to natural gas, and a more rapid leasing of off shore areas. There is also legislation with regard to the building of a West Coast–Texas pipeline to bring the Alaskan oil which is more extensive than the West Coast can use into the heartland of America's refineries so that we can use it effectively to displace foreign oil. The President announced an Executive order with regard to Federal Energy regulatory processes to facilitate development of needed energy facilities such as petroleum refineries. Under that Executive order there will be a deadline-setting process and an accountability process. There will not, however, be a takeover of the independent decision making authority of the regulatory agencies.

There are, of course, some important questions not specifically

addressed. One has to do with gasoline price regulations; how long and on what basis will the independent dealer in gasoline continue to be regulated as to the price at the pump if the refiner-producer of crude oil is deregulated? And what about long term refinery policy as an explicit topic. The price control mechanism has had questionable benefits for the consumer of petroleum products. It may have, in one sense, simply made it possible for the international oil community to raise its prices more than otherwise to fit under the umbrella of our price controls; since all of the price controls always allow the foreign oil price to flow through. However, the fact that we controlled the price of domestic crude oil and averaged out the benefits of that has, in effect, given American refineries something close to $2 a barrel tariff protection. Once domestic crude oil prices are decontrolled that protection will be gone and Congress will be hearing from refiners with suggestions to review the level of protection. Congress and the Administration will have to grapple with that matter soon to assure that we have answered that question by the time that price controls have substantially withered away.

The President urged that the nation respond with care and reason to the Three Mile Island accident and recognize that 13 percent of our electricity comes from nuclear power. He promised the American people an investigation, an independent investigation of that accident, and that the conclusions would be drawn and drawn openly from it.

The President also laid out a program of technology development, short, middle, and long term to help the transition from the energy economy of today to the energy economy of the early and middle twenty-first century. No one can predict this transition with certainty but the President expressed great confidence that we could accomplish it by utilizing the same technological genius which puts man in outer space—and I might add produced the incandescent bulb, the railroad and so many other innovations of our technological society. We should indeed put that genius to work so that chemistry, mechanics, and other engineering arts may prepare new tools to carry our country forward into the next century while we use the tools now at hand to assist us through the next few years, with the very great dangers—political, economic as well as technological—that they present.

QUESTIONS AND ANSWERS

Q: Two or three years ago the Department of Energy made a concerted effort to persuade American industry to convert from natural gas consumption to conservative energy, coal and oil. In the last four or five months they seem to have reversed themselves and are asking industry to convert back to natural gas.

A: When natural gas was in artificially scarce supply in the interstate market, in areas of the country such as this one, there was no choice but to convert industrial facilities from natural gas to oil. The policy of conversion to coal is still sound and where as a practical matter it can be done, the government is requiring it. The new coal conversion law was passed last November and will go into effect on May 8 of this year. However, on existing facilities which

simply cannot burn coal, where the choice is oil or natural gas, given the availability of natural gas now in both intra and interstate markets, the logical step is to encourage the use of the natural gas. This may result in a displacement of 400,000 to 500,000 barrels of oil a day by the end of the year.

Q: New cars are now equipped with catalytic converters which are damaged by leaded fuel, yet leaded fuel is advertised and sold for less money, thus continually tempting the consumer to break the law and buy the cheaper fuel. Why not regulate the prices so that they are the same?

A: We are not producing enough unleaded fuel to keep up with the rapidly growing demand. The answer is to produce more of it and to deregulate gasoline prices. The marketplace will encourage more production of unleaded fuel and the supply-demand competition will take care of the price.

Q: Is it possible that the OPEC countries will be brought under the control of world and regional powers and oil prices will be brought down?

A: Considering the rising demand and the limitation of supply that does not seem logical, even if there were no OPEC. OPEC may give a price break to some developing countries, but that does not seem very likely. Our current policy is to encourage more countries to exploit their oil resources not so much to export to us but so that they can be more self sufficient and less dependent on the world petroleum supply.

Q: Is there any possibility that part of the Energy Security Fund might be used to subsidize poorer countries who will suffer more serious effects from rising energy prices than will the industrialized, developed countries?

A: The Energy Security Fund is devoted to three domestic areas: to assist low income families; to develop mass transit; and to develop technology for alternative energy sources. Funding that would be helpful to lesser developed countries would come from World Bank contributions or other international lending agencies. Some of the lesser developed countries are not so petroleum dependent as are developed countries and can, therefore, develop their economies based on other energy sources.

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Policy Relevant Quality of Life Research

By LESTER W. MILBRATH

ABSTRACT: Objective indicators, particularly economic in- :ators, are inadequate for inferring quality of life (Q. of L.); ɜy must be supplemented by subjective indicators. A strategy proposed for developing policy relevant Q. of L. research ɪt includes: developing a conceptual analytical map of hu- ɪn needs, utilizing both subjective and objective indicators, lecting diverse communities to study, ascertaining lifestyle eferences, emphasizing environmental factors, comparing of L. across national cultures, using Q. of L. data to study cial structures. The paper concludes with some specific ggestions for using Q. of L. research in policymaking to: entify predicaments, provide value weightings, infer pro- ɪective project impacts, assess project outcomes, test limits inferences from objective to subjective indicators, suggest ternate lifestyles, alert leaders to growing disaffection.

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ɪuthor acknowledges gratefully the support of the Rockefeller Foundation for the study :h this paper is based.

ACHIEVING quality of life has been the implicit goal of public policy in nearly all societies for many centuries. This can be said despite the fact that the phrase, quality of life, has come into popular usage only in the past twenty years and seems to have received the greatest attention in highly developed industrial societies. Although less developed societies probably focus their attention on providing such essentials as food, shelter, and clothing for their citizens, it is still valid to claim that the aim of their public policy is to maximize quality of life. This truism, however, provides little guidance for the quality of life researcher or for public policymakers.

The search for quality of life has become a growing concern in Western societies. Some nations have set up ministries such as the ministry "Qualite de la Vie" in France. It is becoming increasingly apparent in many countries that young people choose jobs and careers not so much for the money they pay, or the challenge they provide, but for the opportunities they will present to enhance the quality of life. Many labor unions are now departing from their traditional preoccupation with wages and turning their attention to the quality of working life as well as quality of life in general.[1] This growing policy concern fairly cries out to scholars to conceptualize quality of life more adequately, to devise research designs which will measure it better, and to provide guidance to policymakers who wish to maximize quality of life.

THE PROBLEM OF INFERRING LEVELS OF QUALITY FROM OBJECTIVE AND SUBJECTIVE DATA

Most societies in the world are still preoccupied with economic and security factors as they make public policy. This preoccupation carries an implicit assumption that if the country is not at war and it has a healthy economy, most of its people will realize quality of life. This preoccupation is reflected in elaborate bureaucracies set up to gather and analyze economic statistics in most countries. It requires only a cursory reading of almost any major newspaper in any country to recognize the stranglehold of fascination that indicators of economic conditions have for policymakers. One cannot escape the conclusion that most policymakers implicitly assume that providing jobs and the capability to buy consumer goods will lead to quality of life.

However, increasing numbers of people in a wide variety of countries are beginning to question whether that assumption is valid. For example, the Swedish delegation at a recent UNESCO delegate assembly introduced a resolution (which was passed) urging the Secretariat to initiate studies of quality of environment and quality of life. It was their hope that this would lead eventually to the development of a broader set of indicators more adequately reflective of the totality of life fulfillment that is summed up in the phrase "quality of life."[2]

Many countries have responded to

1. Michelle Durand and Yvette Harff, *La Qualite de la Vie—Mouvement Ecologique, Mouvement Syndical* (Paris and The Hague: Editions Mouton, 1977).

2. A set of papers prepared for the first "expert meeting" held in Paris under this new program in December 1976 has been published under the title, *Indicators of Environmental Quality and Quality of Life* (Paris: UNESCO, SS/CH/38, 1978).

the perceived inadequacy of economic indicators alone as an index of quality of life by gathering and reporting a greater variety of objective indicators to provide a significantly broader and more balanced picture of conditions in any given country.[3] These expanded compilations have been difficult to develop, partly because the infrastructure is not in place to collect, record, and store the necessary data, and partly because public policymakers have not learned to use these data well—many are not persuaded that it is necessary for government to commit resources to collecting them.[4]

Let us assume that a national government has committed sufficient resources to compile an elaborate series of social indicators but has confined the series to so-called "objective" data. The data cover demographic trends, economic conditions, and also include a variety of environmental conditions such as pollution levels, rates of depletion of minerals, and land use patterns. Such a compilation would be very useful for inferring environmental conditions but would be insufficient, in itself, for inferring human or societal needs or for delineating the extent to which these needs are perceived to be fulfilled in the subjective sense of quality of life.

Several studies have shown that there is a relatively low correlation between objective measures of a condition and subjective measures of the way that condition is perceived by a populace. While these low correlations might conceivably be traceable to poor measurement of one or the other type of phenomena, the attempt has been made frequently enough, with several different forms of measurement, to suggest that we are dealing with two conceptually distinct phenomena when we measure a thing objectively and then measure the subjective appreciation of it.[5] It seems clear that objective indicators alone are insufficient to sustain the inference that people experiencing a physical condition, which has scored reasonably high on an indicator, also are experiencing quality with that condition. *Quality is necessarily subjective* and inferences about the presence of a feeling of quality are most validly made by asking individuals to report that subjective feeling.

Another difficulty for utilizing objective indicators to infer subjective perceptions of quality is that most known compilations of objective indicators do not include measures of some of the most important things

3. Prominent recent examples of such compilations are: *Perspective Canada II: A Compendium of Social Statistics 1977*, prepared by the office of Senior Advisor on Integration, Statistics Canada; and the U.S. Compilation entitled *Social Indicators 1976* (a sequel to *Social Indicators 1973*) (Washington, DC: USGPO #041-001-00156-5). A set of interpretive essays on this compilation appears in vol. 435 of *The Annals of the American Academy of Political and Social Science* "America in the Seventies: Some Social Indicators." The Organization for Economic Cooperation and Development (OECD) has for several years had a special task force developing social indicators which it recommends to its member nations. See *List of Social Concerns Common to Most OECD Countries*, OECD, Paris, 1973; also *Measuring Social Well-Being: A Progress Report on the Development of Social Indicators*, OECD, Paris, 1976.

4. This judgement is based on a personal conversation with Dan Tunstall, the major editor and compiler of *Social Indicators 1973*.

5. Erik Allardt, "The Question of Interchangeability of Objective and Subjective Indicators of Social Well Being" presented at The International Political Science Association World Congress, Edinburgh, Scotland, 1976.

for producing quality of life such as the quality of love in a family, the sense of appreciation one receives from a beautiful scene, the sense of identity and satisfaction that comes from decorating and living in one's own home, and so forth. Objective indicators can be used to make reasonably valid inferences of environmental conditions but one should beware of using them to make inferences about subjective perceptions of quality of life.

Some scholars have responded to the perceived inadequacy of objective indicators for inferring quality of life by undertaking development of a comprehensive set of subjective indicators of quality of life.[6] Most of these researchers have identified a fairly comprehensive list of human needs and have then measured the subjective perceptions that individuals have of the extent to which those needs are fulfilled. These studies also typically have included a respondent's overall subjective rating of the quality of his life. Such studies are very useful for inferring an overall subjective sense of quality of life as well as a sense of subjective quality of many elements or components of living; however, they are comparatively poor indicators of the environmental conditions in which people live. Just as one cannot infer subjective quality from objective measures of conditions, so one cannot infer environmental conditions from subjective measures of quality.

In most Western countries, subjective studies typically report fairly high levels of satisfaction with overall quality of life. A worldwide Gallup poll (cited in footnote 6) confirmed this general finding but also showed that these overall judgements of quality of life were strikingly lower in India and there was a clear tendency for them to be lower in Africa.

Subjective studies of quality of life have typically shown that most people derive their greatest sense of quality from their home and family life and from the close supportive relationships they have with friends and colleagues. Most objective social indicators would not be appropriate for measuring these central components of quality of life. Quality of life research which focuses on these interpersonal subjective elements probably would be valid for revealing satisfaction with central elements of quality in living but would provide relatively little guidance to the public policymaker interested in using quality of life research to help set priorities for public action.

Improving environmental quality is an appropriate focus for public policy since most governments can actually do something significant to improve environmental quality. Yet, in most studies of subjective perceptions of quality of life, environmental quality either was measured so broadly as to be of little use or was glossed over with perhaps a

6. Angus Campbell, Philip Converse, and Willard Rogers, *The Quality of American Life* (New York: Russell Sage Foundation, 1976); Frank Andrews and Stephen Withey, *Social Indicators of Well-Being* (New York: Plenum, 1976); John Hall, "Subjective Measures of Quality of Life in Britain: 1971 to 1975, Some Developments and Trends," *Social Trends*, no. 7 (London: Her Majesty's Stationery Office, 1976); Erik Allardt, "Dimensions of Welfare in a Comparative Scandinavian Study," University of Helsinki Research Group for Comparative Sociology, Research Report no. 9, 1975; "Human Needs and Satisfactions," (Princeton, NJ: Gallup International Research Institutes); Elemer Hankiss, "Quality of Life Models (Hungarian Experience)" in *Indicators of Environmental Quality and Quality of Life* (Paris: UNESCO SS/CH/38, 1978), pp. 57–96, and "Quality of Life Newsletter" (Budapest: Hungarian Academy of Sciences).

single item. In some recent studies of environmental quality and quality of life at the Environmental Studies Center at SUNY/Buffalo, attention has been directed toward a broader and more detailed look at perceptions of environmental quality.[7] This more detailed information facilitates the selection of specific environmental aspects which the population of a region perceives to be very deficient in quality in contrast to other environmental aspects which the population perceives to be of satisfactory quality. See Table 1.

An additional reason for concentrating greater attention on the perceived quality of environmental elements is that most people are reasonably well satisfied with those parts of their lives that they can control rather directly such as their home, their family life, their friends, and their purchases of consumer goods. Many other environmental aspects can be improved only by concerted societal action such as cleaning up the air or the water, the provision of security against theft and vandalism, the provision of medical care, the quality of performance of government and so forth. Generally respondents rate the quality of these "public goods" lower than the quality of those goods which can be acquired by private initiative. It is particularly evident that we in the United States live in "private affluence and public squalor" but the statement probably applies to most industrialized Westernized countries. It makes good sense, then, to *pay particular attention* in quality of life studies *to those environmental aspects which require concerted societal action in order to maintain or improve them.*

ELEMENTS OF A STRATEGY FOR DEVELOPING POLICY RELEVANT QUALITY OF LIFE RESEARCH

It is strongly recommended that both objective and subjective indicators be incorporated in quality of life studies. If a study utilized *both* objective and subjective indicators, it probably could arrive at reasonably valid inferences about the levels of quality of living experienced by people. Such a study also could identify arenas of possible action, areas which people perceive to be in urgent need of change. This subjective information could be compared with objective measures of conditions to arrive at useful strategies for improving quality of life. Yet, in a very important respect this information still would be deficient for inferring the needs of the people. Most people are at least partially incapable of telling researchers what their needs are. The need that is well met, for example, may be given hardly any thought because it is fulfilled so reliably. At the same time, it is well known to most social scientists that persons who do not have their basic food and shelter needs met will devote almost all of their attention to fulfilling them. Persons who live in societies that provide adequate food and shelter for nearly everyone soon discover that they have other needs —social respect or self-actualization. It was not until the more basic needs were fulfilled that persons could discover and attempt to fulfill these "higher level" needs.

7. Lester W. Milbrath, "Quality of Life on the Niagara Frontier Region of New York State," Occasional Paper #8, Environmental Studies Center, SUNY/Buffalo, December 1977; also "Indicators of Environmental Quality" in *Indicators of Environmental Quality and Quality of Life* (Paris: UNESCO, SS/CH/38, 1978), pp. 32–56.

TABLE 1

ENVIRONMENTAL QUALITY MODULE
ERIE AND NIAGARA COUNTY—BROAD PUBLIC (n = 1021) COMPARISON OF MEANS ON VALENCE AND IMPORTANCE RATINGS; RANKED IN ORDER OF IMPORTANCE

IMPORTANCE RANKING	ITEM	IMPORTANCE MEAN	VALENCE[1] MEAN	RANK DIFFERENCE
1	#Your Family Life	4.45	4.41	0
2	Fire Protection Around Here	4.41	4.08	−4
3	**Security of Your Home and Property from Theft and Vandalism	4.34	3.54	−15
4	*Medical Care Around Here	4.32	3.71	−10
5	Privacy in Your Home	4.31	4.24	+3
6	**Level of Cleanliness of the Air Around Here on Most Days	4.22	3.31	−21
7	**Facilities for Sewage Disposal Around Here	4.20	3.41	−16
8	Public Water System Around Here	4.18	3.80	−2
9	Your Daily Work (Answer Even if You Don't Have a Job)	4.16	3.89	+2
10	Freedom You Have to Live Where You Want	4.15	4.11	+6
11	Police Protection Around Here	4.14	3.54	−8
12	*Social Problems in Your Neighborhood (Alcoholism, Child Abuse, Drugs, etc.)	4.13	3.38	−14
13	**Job Opportunities Around Here (General Job Market—Not Just for You Personally)	4.11	2.00	−31
14	Educational Opportunities Around Here	4.05	3.69	−1
15	**Job Being Done by National Government	4.01	2.58	−24
16	**Cost of Living Around Here	4.00	2.35	−27
17	**Job Being Done by Local Government	3.99	2.65	−21
18	#Beauty and Comfort of Your Home	3.98	4.10	+13
19	Your Standard of Living (Housing, Car, Furniture, Recreation, etc.)	3.96	3.82	+10
20	Freedom You Have to Move or Advance from Job to Job	3.95	3.28	−9
21	**Job Being Done by State Government	3.89	2.42	−21
22	The Level of Crowding in Your Residential Neighborhood	3.85	3.51	+1
23	#Neighborhood Upkeep	3.847	3.84	+15
24	Cleanliness of Streets and Roadways Around Here	3.78	3.236	−7
25	Level of Pride People Around Here Have Toward Their Community	3.72	3.38	0
26	The Level of Traffic Congestion in This Area	3.719	3.04	−8
27	#Convenience for Getting to Other Important Places (For Example, to Work, to Shop, etc.) from Your Home	3.71	3.79	+16
28	*Beauty of the Shoreline on Lakes and Streams Around Here	3.70	2.55	−12
29	Variety and Quality of Products and Services Available Around Here	3.65	3.59	+12
30	*Quality of Water for Swimming in Erie and Niagara Counties	3.59	2.43	−11
31	Man-Made Environment (Buildings, Landscaping, Roads, etc.) Around Here	3.57	3.08	−2
32	Control of Dogs, Cats and Other Pets in Your Community	3.56	3.03	−3
33	Relations Among Groups (Racial, Religious, Political, Ethnic, Class) in Your Community	3.55	3.39	+9
34	#Amount of Open Space Around Here	3.54	3.53	+14

TABLE 1 (*Continued*)

IMPORTANCE RANKING	ITEM	IMPORTANCE MEAN	VALENCE[1] MEAN	RANK DIFFERENCE
35	#Relations with Your Neighbors	3.53	4.13	+32
36	*Overall Weather (Climate) for This Area: Consider the Weather for the Whole Year*	3.51	3.30	+8
37	Quality of Water for Fishing in Erie and Niagara Counties	3.49	2.66	0
38	#Natural Outdoor Recreation (Skiing, Hiking, Swimming, Fishing, Picnicking) Around Here	3.46	3.45	+16
39	Unspoiled Nature and Wildlife	3.42	3.235	+7
40	*Noise Levels Around Here*	3.35	3.26	+10
41	#Opportunities for Getting to Know Like-Minded People Around Here	3.33	3.61	+25
42	Collective Transportation (Mass Transit or Public Transport) Around Here	3.32	2.88	+6
43	#Topography (Flatness or Hilliness, Lakes and Rivers) of the Land Around Here	3.26	3.72	+30
44	#Access to Parks	3.23	3.73	+32

** Elements where community is perceived to be greatly deficient.
* Elements where community is perceived to be seriously deficient.
Elements where community is perceived to excel.
[1] Valence should be interpreted as the level of pleasingness or satisfaction people feel with a given environmental element. The scale ranges from 1–5; the higher the mean the greater the pleasingness.

Develop an analytic map of needs

Quality of life research should begin by developing an analytical scheme for mapping human needs, societal needs, and ecosystem needs. Andrezej Sicinski makes the point, and defends it well, that statements of need should be tied to the level of system with which the analyst is dealing.[8] We all recognize that human organisms have needs but subsystems of organisms, such as the cell or molecule, also have needs. To move in the other direction, populations or societies have needs which are different from the needs of individuals. Beyond that, there are ecosystemic needs. These needs for ecosystem maintenance should be assigned the highest priority or value; an ecosystem can exist and function well without man but it would be impossible for man to live without an ecosystem. Ecosystems also could exist and function well without human society, but society could not live without an ecosystem.

Humans require both a well-functioning ecosystem and a well functioning society in order to have any hope of realizing quality of life. Yet, one could imagine that a community or a nation could pursue quality of life, as they define it, by adopting policies that could seriously damage their ecosystem or their society. Certain countries, such as the United States, may well be approaching that possibility. It is quite conceivable that if we insist on increasing our use of energy, as we have in the past, we could so damage our ecosystem and our social system that their capability for providing quality of life would be drastically impaired. As another example, Hitler's Germany

8. Andrzej Sicinski, "The Concepts of "Need" and "Value" in the Light of the Systems Approach," *Social Science Information* 17, 1 (Sage: London & Beverly Hills, 1978), pp. 71–91.

relentlessly pursued its definition of quality of life but brought dire suffering to millions and destroyed its own social system in the end. In other words, it will not suffice to ask people what they desire in order to develop a wise policy to maximize quality of life. That could conceivably lead to social or ecological disaster and is a further reason why we cannot depend solely on economics and the market system to make our policies as we search for quality of life. The perspective that all individual wants and desires must be fulfilled will not, by itself, be adequate to guide public policies in pursuit of quality of life.

What then is the optimum way to ascertain human needs, societal needs, and ecosystem needs? This requires good hard analytical work in a process that might be called "needs clarification analysis" which is similar to value clarification analysis. Carlos Mallmann and his associates at the Fundacion de Bariloche in Argentina have spent three years developing a comprehensive analytical schematic of human needs; it is reproduced as Figure 1.[9] It is a most comprehensive, yet parsimonious, statement of human needs. Such an "analytical map" constitutes a valuable guide for inquiries into quality of life. Without such a guide a researcher runs the danger of leaving serious gaps in his development of questions, items, and indicators.

Similar abstract analytical guides to societal needs or to ecosystem needs are urgently needed and scholars should be setting about developing them. Participants in such development require a very thorough understanding of social and ecosystem processes. The importance of these analytical statements of need derives from our recognition that quality of life is not achievable for the human species, in the long run, without well functioning social systems and ecosystems. A clear-cut statement of a decisive ecosystem need, preservation of the ozone layer for example, becomes a preeminent value to be maximized as public policy is made. We lose sight of this perspective at our peril.

Use both objective and subjective indicators

The second major element of the recommended strategy is to design a quality of life study so that it will systematically gather data on both objective conditions and subjective perceptions. So far as possible, the planned measures of subjective perceptions should be matched by measures of objective conditions. There will be some important subjective perceptions for which there is no valid objective measure: an example would be a subjective perception of the quality of family life. On the other hand, it is difficult to conceive of objective conditions for which one could not obtain a comparable subjective perception.

Public policymakers should utilize both kinds of data to infer the extent to which specific human needs are fulfilled or unfulfilled in a given community or society. A thorough study would provide a measure of sense of satisfaction for each of the needs identified in the needs clarification analysis suggested above. Such a thorough data set also would disclose gaps in our current public thinking and discourse and would indicate areas where further thought

9. Figure 1 is taken from Carlos Mallman, "Research Priorities and Holistic Knowledge," Fundacion de Bariloche, May 1977.

FIGURE 1

ANALYTIC SCHEMATIC OF HUMAN NEEDS*

Classification of needs according to categories of needs		Classification of needs according to categories of satisfiers which satisfy them	Personal: Psychosomatic or Intra-human	Extra-personal: Psycosocial or Inter-human	Extra-personal: Psycohabitational or Extra-human
Living	Subsistence	Maintenance	Nutrition Rest Exercise	Earning-Work Reproduction Social Habitability	Shelter Clothing Physical Habitability
	Security	Protection	Prevention Cure Defense	Prevention Restitution Defense	Prevention Restitution Defense
Living Together	Belongingness	Love	Belief in one-self, selflove, Identity	Friendship, Sexual and Family love	Rooting, Attachment
	Esteem	Understanding	Psycholization Introspection Study	Socialization Education, Informa-tion, Observation	Habitatization Observation
Growth	Development	Government	Liberty Independence Autonomy	Autonomous Participation in decisions	Autonomous Partipation in management
	Renewal	Recreation	Self-recreation	Social recreation	Recreation in the habitat
Perfection	Transcendence	Creation	Creation by oneself	Creation of social environments	Creation of habitational environments
	Maturity	Meaning	Self-realiza-tion	Historic, Prospect-ive and Religious Meaning	Weltanschauung
		Synergy	Authenticity, Equanimity, Security, Humility	Solidarity, Justice, Altruism, Generosity Responsibility Adaptability	Beauty Ecological equilibrium

* Developed by a work group at Fundacion de Bariloche Argentina; drawn from Carlos Mallmann, "Research Priorities and Holistic Knowledge" mimeo, Fundacion de Bariloche, May, 1977.

and discussion are needed. As study of the data progresses, certain environmental elements or factors are likely to stand out as urgently requiring public attention. The data analysis scheme that should be utilized to bring out this information for public policymakers has not been fully developed by the Environmental Studies Center at SUNY/Buffalo, although some exploratory attempts have been made.[10]

10. Those who wish to study our exploratory attempts should consult my, "Quality of Life on the Niagara Frontier Region of New York State."

Selecting diverse communities

Most of the major studies of subjective perceptions of quality of life cited in footnote 6 have utilized nationwide random samples. Using such a sample makes it difficult to match objective measures of the conditions a person is experiencing with his subjective perceptions of those conditions. To get around that problem, the third element of a recommended strategy is that quality of life studies should be concentrated in a variety of specific communities within a nation. These communities should

be chosen to be as different from each other as possible. This maximizes variance and should disclose significant differences in subjective perceptions of quality which can be related to significant differences in physical conditions, thus facilitating development of a theory of the interactive effects between objective conditions and subjective perceptions. The settlement or community is probably the most useful social unit for analyzing the relationship between objective conditions and subjective perceptions of the quality of those conditions. There are certain kinds of constancies in the community such as climate, topography, and general community functioning. On the other hand, there is sufficient diversity of social position and lifestyle that one can analyze the effect of those factors on subjective perceptions of quality of life.

The following criteria seem to be the most appropriate dimensions along which a researcher would wish to maximize variance in choosing communities in which to study quality of life. The size of the community affects its complexity, its class structure, its convenience structure, its employment patterns, and its pollution levels. Size, therefore, is an important criterion on which to maximize variance. If possible, a quality of life study should include large urban centers, medium size cities, small cities, hamlets, and rural areas.

Regional variations within a nation often are correlated with variations in religious beliefs, traditions, levels of economic development, climates, topography, and even differences in language. To the extent that a nation has important regional variations, region should be incorporated as a criterion for maximizing variance in selection of communities.

Some communities are likely to be growing in population and economic activity, while others are merely holding their own, and still others may be declining. These differences could strongly affect subjective perceptions of quality of life, making a third important dimension for maximizing variance in communities.

As research teams deliberate on the choice of communities for their country they may decide that other criteria are more relevant than those suggested above. It is unlikely, however, that more than three criteria could be used to select specific communities; otherwise the matrix would become far too complex and many of its cells would be left unfilled.

Ascertain life-style preferences

One of the major reasons that subjective perceptions of conditions do not correlate very highly with physical measures of those conditions is that people vary in the choice of things that they want to maximize in their life. A fourth important element of recommended strategy, therefore, is that quality of life research should ascertain lifestyle preferences and incorporate measures of these preferences into the analysis of subjective perceptions of quality. It is well known to all of us that many people select the community that they will live in and the job that they will hold as it best accords with their lifestyle preference. People that live in sparsely populated rural areas are likely to want very different things for fulfilling their quality of life than people who live in highly populated urban areas. The physical conditions that would provide reasonable quality of life for one person could be pitifully inadequate for the lifestyle needs of another person. What is suggested, then, is that in addition to developing an excellent abstract and general

statements of human needs, societal needs, and ecosystem needs, good quality of life research will incorporate measures of lifestyle preferences (needs) and will incorporate these need statements into the analysis to ascertain how well a given community provides quality of life for the people living there.

Research at the Environmental Studies Center asked respondents to rate each element or aspect of life on two scales: a valence scale which measures the level of pleasure or displeasure that a person experiences with an element; and an importance scale which asks the person to imagine that the element is of poor quality and to judge how important it would be to improve it in order to bring quality to his life (see Figure 2 for a sample page from the Environmental Quality Module). The importance judgements so acquired can be factor analyzed into domains which become, in effect, statements of lifestyle preferences. Because lifestyle preferences are important for analyzing perceptions of quality of life, it is worthwhile retaining measures of the importance of given quality of life elements. This is deemed useful despite the fact that several studies, including ours, have shown that weighting valence judgements by the importance respondents assign to a given element does not improve the ability to predict overall quality of life from the subjective perceptions individuals have of a variety of specific life elements.[11] Importance judgements are also useful guides for public priorities as can be seen from a close study of Table 1.

Emphasize environmental factors

The fifth component of a recommended strategy has been alluded to above. Greater attention should be given to a wide spectrum of environmental factors than to interpersonal and family factors. The interpersonal and family factors are admittedly very important for quality of life but there is very little that communities can do to improve such elements. Furthermore, a majority of the respondents in most of the studies conducted so far report that these elements are of reasonably high quality. Public goods which must be provided by concerted societal action are more likely to be perceived as being of poor quality and are the more appropriate targets for remedial action by public policy initiative. A study which hopes to be maximally relevant for public policy guidance should concentrate on those environmental factors that require concerted societal action to be improved.

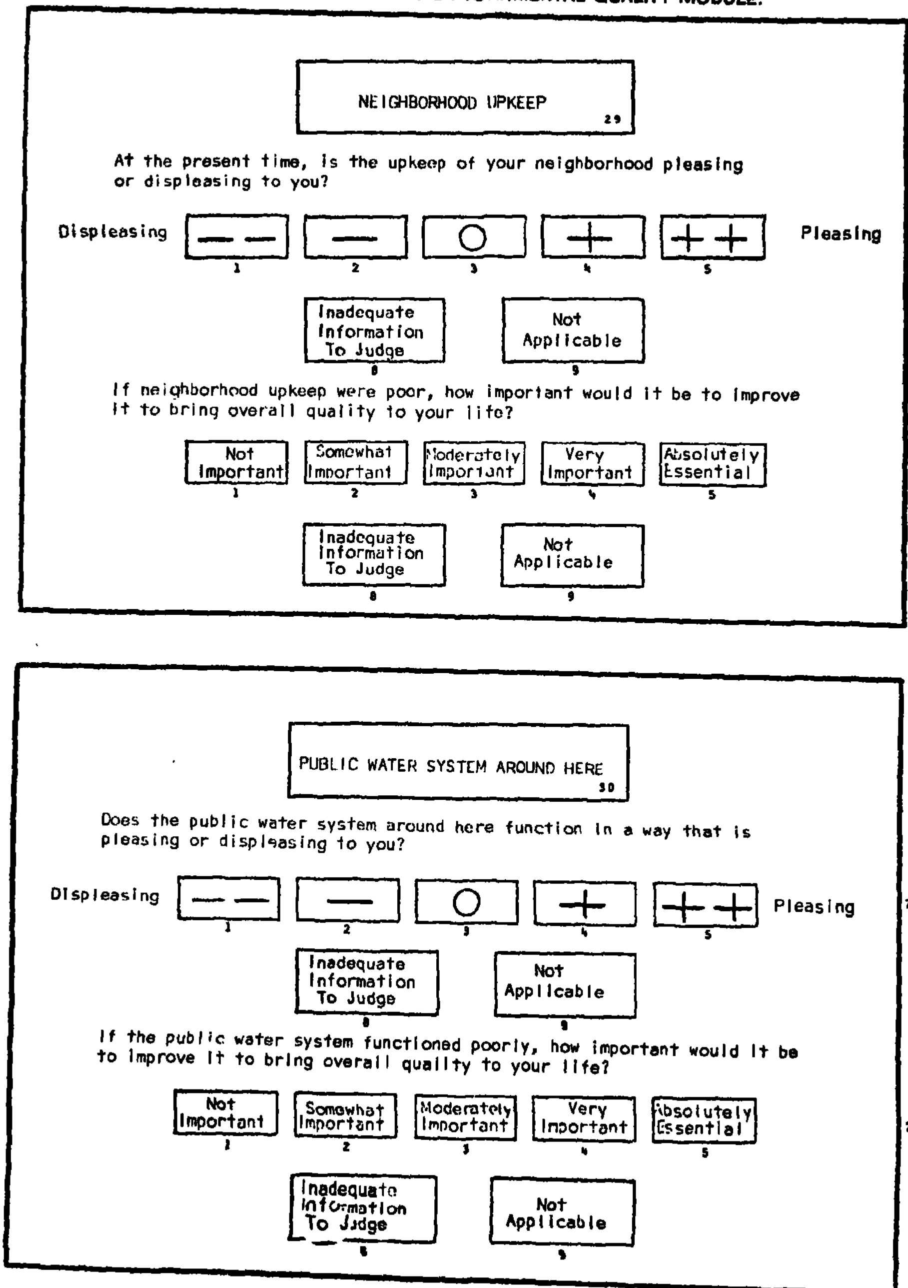
Trans-national comparisons

If teams of scholars from a variety of countries can agree on the main characteristics of a research design, each executing the design, in its own country, the pooled data set will have a significantly enhanced capability for theory development and theory testing. It will provide a much wider base for making valid inferences about the levels of quality of life experienced in different kinds of communities and nations, and will help to pinpoint the kinds of conditions that enhance or detract from quality of life. Because teams of scholars come from quite varied national traditions it will not be easy to arrive at agreement on the basic study design. Selecting a variety of communities within a nation, instead of taking a nationwide sample, should make it easier to avoid the concern of some national leaders that their country might not look good if comparisons were made between the

11. Campbell, Converse, and Rogers, *Quality of American Life*, pp. 82–93; and Andrews and Withey, *Social Indicators of Well-Being*, pp. 119–120.

FIGURE II

SAMPLE PAGE FROM THE ENIVORNMENTAL QUALITY MODULE.*


NEIGHBORHOOD UPKEEP 29

At the present time, is the upkeep of your neighborhood pleasing or displeasing to you?

Displeasing — — (1) — (2) O (3) + (4) + + (5) Pleasing 69

Inadequate Information To Judge (8) Not Applicable (9)

If neighborhood upkeep were poor, how important would it be to improve it to bring overall quality to your life?

Not Important (1) Somewhat Important (2) Moderately Important (3) Very Important (4) Absolutely Essential (5) 70

Inadequate Information To Judge (8) Not Applicable (9)

PUBLIC WATER SYSTEM AROUND HERE 30

Does the public water system around here function in a way that is pleasing or displeasing to you?

Displeasing — — (1) — (2) O (3) + (4) + + (5) Pleasing 71

Inadequate Information To Judge (8) Not Applicable (9)

If the public water system functioned poorly, how important would it be to improve it to bring overall quality to your life?

Not Important (1) Somewhat Important (2) Moderately Important (3) Very Important (4) Absolutely Essential (5) 72

Inadequate Information To Judge (8) Not Applicable (9)

* Developed by The Environmental Studies Center, SUNY/Buffalo.

evels of quality of life in various countries. There would be no conclusive way to aggregate the quality of life experienced in the various communities of a nation into an over-all ...

quality of life as experienced by the nation as a whole.

Study social structures

Properly designed quality of life studies provide a new way to look at the social structure of a community. They disclose what kinds of people hold different kinds of lifestyle preferences. They disclose who is relatively advantaged and who is relatively disadvantaged within a community; even more importantly, they disclose in which respects people are advantaged or disadvantaged. This kind of analysis also shows the strengths and weaknesses of a community and identifies for policymakers those elements or domains where it is most urgent for action to be taken in order to improve the quality of life. If we can manage to conduct these studies, at intervals across time and across communities, we not only will begin to know where our own nations or communities are heading but also will learn the dynamics of human adjustment and social change which are very important to understand as nations try to develop policies for improving quality of life.

INFERRING PREFERRED POLICY INITIATIVES FROM QUALITY OF LIFE DATA

As indicated above, it is unwise to translate directly from subjective perceptions or from objective data to a public policy strategy. It is easily conceivable that a body politic which operated in that fashion might choose policies which could have the effect of damaging or destroying the social system or the ecosystem. Public policymakers, instead, should use quality of life data as one of the important pieces of information that they keep in mind as they make policy. Further, they should be clearly aware of the need to preserve and enhance societal functioning and of the need to protect and insure the continued good functioning of the ecosystem. This will require policymakers to adopt a forthright and thoughtful futures perspective. If we concentrate only on today and tomorrow in our policymaking, we could take, and have taken, actions which will be destructive of the social system or ecosystem in the not too distant future.

So long as these preeminent social and ecosystem needs and values are kept clearly in mind, it seems entirely appropriate that policymaking in a society should aspire to identify important unfulfilled needs and then devise a strategy of societal action which can be followed to fill those needs. To be more specific, a Quality of Environment/Quality of Life study has relevance for policy decisions at the local or higher level in several ways:

- The methodology identifies social predicaments and the kinds of people experiencing a given predicament. (A predicament is defined as a perceived level of community performance which is far below the level of perceived need for that enrivonmental element.) Resources can then be allocated to the alleviation of the worst predicaments.
- Such a study would provide differential weighting, or values, for environmental elements; this assists policymakers as they weight elements in tradeoffs.
- With good data, especially longitudinal data, on Quality of Environment/Quality of Life, researchers can more validly infer the impact of prospective projects requiring Environmental Impact assessments.
- Post-project outcomes, which are

seldom assessed, can best be assessed with Quality of Environment/Quality of Life methodology.

- Studies disclose correspondences and divergencies between objective and subjective indicators providing researchers and decisionmakers a better understanding of limits on our ability to make valid inferences from either type of indicator.
- A study may suggest alternate lifestyle or social arrangements suitable for achieving quality of life which will be easier to realize, and/or be less environmentally damaging than those arrangements presently assumed to be requisite to quality of life.
- Quality of Environment/Quality of Life trend data can alert decisionmakers to growing disaffection which can undermine the viability of their government.

It is clear that most policymaking in most communities in most countries is not informed by the data and knowledge that can be generated by well conceived policy relevant quality of life research. Time and carefully planned and executed quality of life research will be required before it can be demonstrated to public policymakers how efficacious this kind of research can be for guiding their policy decisions.

* * *

QUESTIONS AND ANSWERS

Q: To undertake the kind of transnational policy relevant quality of life research you discussed, won't you encounter serious difficulties both in obtaining financing and in communication when moving from one culture to another?

A: The kind of research I have in mind, that would go into several countries to draw cross national comparisons, would cost, say, a million dollars. Expensive is a relative term; compared to the cost of a billion dollar reactor, it's cheap! It will be difficult to find the money, communication is a problem, and there is also a problem in making gathered data available to policymakers in what they deem to be usable form. But there is need for quality of life data to be incorporated into policymaking, and UNESCO is helping to identify people in the developing countries who are interested in these questions.

Q: My impression from listening to speakers is that they were suggesting an increase in the consumption of coal and nuclear energy to make up for the shortfall of oil. If this is, in fact, the chosen alternative, what will that do to the quality of life?

A: When the question of quality of life is raised, many people feel that you must begin with maximizing income, maximizing profits, and full employment. There are, however, ways to live with energy problems that involve a change of lifestyle. A movement toward soft paths to finding energy is emerging which stresses widely dispersed resourses, often put in place by groups or communities, and relies more heavily on solar, hydroelectric, and other small technologies. These efforts avoid the high capital costs and consonant vulnerabilities of more conventional energy installations. We can find other ways to live—more simply, more healthfully, and with more quality.

ANNALS, AAPSS, 444, July 1979

Environmental Quality and Economic Development

By DONALD P. HEATH

ABSTRACT: In recent years, considerable progress has been made in reducing both air and water pollution in the United States. The cost of clean-up was not critical during this period, when large gains could be made at relatively low cost; but the Law of Diminishing Returns is at work. We have entered the phase where small incremental improvements are inordinately costly. Government estimates indicated that in 1977 the environmental laws cost each American family $600, and that by 1986 the cost per family will be $1300 (in 1977 dollars). The family will receive little or no health benefit from this additional money, but will have less to spend for food, shelter, and medical care. Today we see a growing awareness in both Congress and the Administration that the billions of dollars spent on environmental overcontrol will add to inflation, retard economic development, and inhibit job formation. The urgent need is for the people—the families who must carry the cost burden—to communicate their concern to their representatives in Washington.

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PROGRAMS dealing with environmental responsibility vary widely around the world, depending on the level of industrialization within a given country. Most underdeveloped countries recognize that they have urgent problems in the supply of safe drinking water and in the disposal of human wastes, and are giving priority to those programs. But they have essentially no industrial environmental programs. The more advanced nations are beginning to face the complex environmental problems of an industrial society. Brazil and Mexico, for example, are developing countries with significant environmental problems, and they are struggling to find the resources to deal with them as well as with widespread poverty.

The industrialized countries of Western Europe, as well as Canada, Japan, and Australia, all have good environmental programs and are getting positive results. Three of them—Japan, Germany, and Sweden—have very aggressive programs that in some respects have moved faster than ours.

U.S. ENVIRONMENTAL LAWS

The United States has 13 major environmental, toxicology, and safety laws. In this discussion three environmental laws will be examined:

- *The Clean Air Act*, which governs auto emissions and air pollutants from factories, power plants, and other sources; major pollutants are carbon monoxide, oxides of nitrogen, sulfur dioxide, ozone, and particulates (soot);
- *The Water Pollution Control Act*, which governs the discharge of pollutants by industries and municipalities into our rivers, lakes, and oceans;
- *The Resource Conservation and Recovery Act*, a relatively new law to govern the disposal of waste—everything from old newspapers to spent industrial chemicals.

In 1977, the U.S. spent $40 billion to comply with these three laws. By 1986, the total cost is expected to be $86 billion a year (in 1977 dollars)—more than double and still rising. These estimates are from a government source, the Ninth Annual Report of the Council on Environmental Quality. Industry estimates are considerably higher.

It is appropriate to express these amounts in terms of costs per family, since the family—as consumers and taxpayers—ultimately pays all the bills of both industry and government. In 1977 the environmental laws cost each American family $600. There is evidence that some portion of this expenditure was well spent, but that some was not.

The government now expects that by 1986 each family will be paying $1,300 per year (in 1977 dollars) to meet these laws. Other estimates predict that the cost will be closer to $2,500 a year. Either way, the family will receive little or no environmental improvement in return for its additional money. Instead, the family will have less money available for such essentials as food, shelter, and medical care—which in turn will have an adverse impact on public health.

DIMINISHING RETURNS

In order to understand why large future expenditures will yield little benefit, the problem should be considered in terms of the Law of Diminishing Returns, a law that applies to almost any human endeavor. It's easy to wring most of the

water out of a sopping wet towel. But one must apply an inordinate amount of muscle to get the last few drops out, and it's just not possible to wring the towel dry.

In Figure 1, the Law of Diminishing Returns is illustrated by the removal of pollutants from the environment. The *costs* of pollutant removal typically rise very modestly until perhaps 70 percent removal is achieved. Then they rise rapidly. The *benefits* increase rapidly at first and then taper off. The last pound of pollutant removal will always cost more than the first one, and provide much less benefit.

The shapes of these curves are fundamental. They would look much the same whether we were removing bacteria from sewage, carbon monoxide from auto exhausts, or dirt from the living room carpet. In mathematical terms, the cost must asymptotically approach a vertical line represented here by 100 percent removal. On the other hand, the benefits must asymptotically approach a horizontal line which would represent 100 percent of the benefits to be obtained.

The space between the curves is the difference between benefits and costs, and you can see that pollutant removal can go all the way to about 98 percent before the curves intersect and the total costs begin to exceed the total benefits. This comparison is often cited by EPA and the environmental lobby to justify high pollutant removal. But the comparison is misleading. We need to compare the *incremental* costs and benefits instead of looking only at the totals.

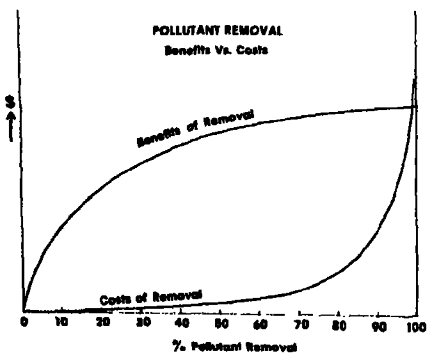


FIGURE 1

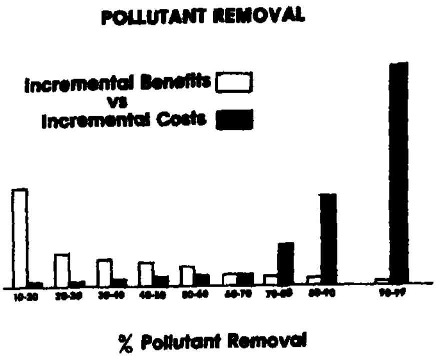


FIGURE 2

Figure 2 shows the same curves as Figure 1, but expressed in incremental terms. Now we can see how the Law of Diminishing Returns really operates. The largest gains at lowest cost come early, and benefits may still equal costs when 60 to 70 percent of the pollutant has been removed. Beyond about 70 percent, each additional dollar spent brings a smaller benefit until a gain of one percentage point, say from 98 to 99 percent, brings only pennies in benefits. It's like squeezing one more drop of water out of that wet towel. Yet, right now, automotive emission control systems are being designed to remove nearly 99 percent of unburned hydrocarbons in order to meet the requirements of the Clean Air Act.

This is a social problem. While 70 percent pollutant removal might be

optimum on an economic basis, is it socially acceptable? Experience indicates that anything less than 90 percent removal is unlikely to be accepted by the U.S. government.

CLEAN AIR BENEFITS

Over the years considerable progress has been made in cleaning up the air. For example, the 1978 Report of the Council on Environmental Quality states:

> "Simultaneous violation of total suspended particulates and sulfur dioxide are rare, appearing only in a few lightly populated areas."

> "In the 13 cities with complete data from 1973 to 1976 the total number of days with harmful CO levels declined 36%."

> "Combined data from 15 monitoring stations in 13 cities . . . show a 20% reduction in violations of the 0.08 ppm oxidant standard from 1973 to 1976."

One might expect that this clean-up —which cost $56 billion in the 5-year period 1973 through 1977—would have resulted in some improvement in respiratory health. However, studies have been unable to find any such benefit. For example, when the Albert Einstein College of Medicine compared health statistics in New York City for 1963-1968 with those of 1969-1972, they found that the large expenditure made to reduce air pollution in the city has yielded no discernable benefits.

A similar view is obtained from a recent study by the Yale University Lung Research Center in New Haven, Connecticut. As reported by Bouhuys, Beck and Schoenberg*, the Yale study compared respiratory health in the industrial town of Ansonia, Connecticut—a copper, brass and textile manufacturing center—with that in the rural village of Lebanon in upstate Connecticut. Detailed studies of both communities found no substantial differences in lung disorders (asthma, bronchitis, and emphysema) between urban and rural residents.

The authors also compared the results of the Yale study with the results of a number of other studies around the world, and reported that "within rather wide margins . . . variations in air quality do not seem to have substantial effects on the prevalence or severity of common diseases which affect airway calibre." Findings like this suggest that in the case of the Clean Air Act, the Law of Diminishing Returns has already gone into effect.

FUTURE OVERCONTROL

There's no way of recovering money misspent in the past. The challenge now is to avoid the consequences of future overcontrol. This will be a difficult undertaking because overcontrol is built into the environmental regulations in a variety of ways, some not readily apparent. The government has followed at least five roads which lead to overcontrol.

Basing standards on studies of questionable value

Standards have been established on the basis of studies that give no effect when repeated by other investigators or were conducted on such a small sample as to be insignificant. The carbon monoxide (CO) standard is an example. The current standard—35 parts per million (ppm) exposure for one hour

* *Nature*, vol 276, 30 November 1978.

or 9 ppm for 8 hours—is based on one study, conducted in 1967 by Beard and Wertheim. Four attempts have been made to replicate this study. None have shown any health effects at the CO exposure levels of the 1967 study.

The ozone (oxidant) standard is another example. When it was established at 0.08 ppm in 1971, the key health basis was a study conducted by Schoettlin and Landau. Later the chemical procedure used to measure ozone content in this study was found to be in error. When corrections were made for this error, the health effects observed were encountered at ozone concentration greater than 0.25 ppm. EPA became aware of this measurement error, but made no effort to revise the ozone standard until forced to do so by industry.

Basing standards on trivial health effects

The environmental laws give the EPA wide latitude in deciding how serious a health effect must be to warrant controls. The Clean Air Act, for example, states that the EPA shall set up Air Quality Standards "the attainment and maintenance of which in the judgment of its administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health."

The law does not define a health effect. Is it an illness that impairs one's ability to perform normal activities? Or is it some minor, temporary irritation? Nor does the law state how many people must suffer a "health effect" in order to be the subject of nationwide controls. But the legislative history of the act includes references to "the most susceptible part of the population."

Given this latitude, the EPA has opted for overcontrol. Its regulations are based on any reported measurements of any health effect, and apply to whatever small population group may be susceptible. In the Yale study mentioned earlier, the investigators attempted to identify residents who are unusually sensitive to air pollution—the susceptible subgroup whose health the EPA regulations are specifically written to protect. They were not successful. The authors reported that ". . . although there may be small groups of persons sensitive to factors in the urban environment that do not affect most people, we have not been able to identify them."

It might be mentioned—not entirely in jest—that there is indeed one subgroup of susceptible people whom the government and Yale have both neglected. More than 5 percent of the population—some 10.8 million people, according to a 1970 study by the National Center of Health Statistics—are afflicted by chronic hay fever. It is probable that more Americans suffer far more serious health effects from airborne pollen than from our current levels of man-made air pollution. And it is certain that ragweed and the other irritants of nature could be eliminated for a fraction of the money being spent to meet the Clean Air regulations.

Building in excessive margins of safety

In this case, overcontrol results from the over-interpretation of the "adequate margin of safety" specified in the Clean Air Act. The ozone standard is an example. The consensus of the scientific community is that no adverse health effects have been demonstrated from ozone con-

centrations below 0.30 parts per million. Yet the EPA standard is 0.12 ppm. Further, this level can be exceeded only one day per year.

Widening the list of pollutants deemed dangerous to health

The Resource Conservation and Recovery Act places new controls on the disposal of hazardous waste—controls that are urgently needed, as there have been far too many instances of irresponsible disposal. But what constitutes a hazardous waste? The EPA is proposing a definition broad enough to include anything which might be slightly hazardous under any circumstances. Under the proposed EPA rules many common materials become hazardous; for example, soft drinks, broken-up street paving, and most soils. The cost of providing disposal that is safe and secure forever for so many materials would certainly help propel the cost of environmental control toward the $2,500 per family per year mentioned earlier.

Adding a set of arbitrary standards

The Clean Air Act has imposed a second set of air quality standards unrelated to health. It is based on a concept called Prevention of Significant Deterioration (PSD) and is intended to preserve clean air wherever it exists. This concept was originally intended to protect the air quality in pristine areas and in that context may make sense. But PSD is being applied to urban areas. If a city's air is cleaner than required to meet the air quality standards, no new source of pollution that would cause "significant deterioration" is permitted.

The rule applies separately to each of the regulated pollutants. Since nearly all areas have at least one pollutant that is better than the standard, this means that PSD applies almost everywhere. Most cities, for example, are now better than the standard for oxides of nitrogen. These oxides are the products of combustion; it would be difficult indeed to build a factory without a boiler or furnace of some kind which emits oxides of nitrogen. Thus, industrial growth may be severely limited in most cities after August, 1979, EPA's deadline for applying PSD to oxides of nitrogen.

Industry finds this set of rules particularly vexing because it provides no public benefit. More than that: Who can measure the impact on the economy of plants never built and jobs never generated?

INDUSTRY ACTION

Recently the EPA Assistant Administrator for Air accused industry of trying to lynch the Clean Air Act. This is an overdramatization but industry has in fact become actively involved. An excellent case in point concerns the ozone standard. As noted earlier, the EPA made no effort to revise its ozone standard after an error was found in the study it was based on. Finally, in 1976 the American Petroleum Institute (API), using procedures prescribed in the law, petitioned EPA to revise the standard. In 1977, API requested the Federal Court to force EPA to issue a revised standard.

In January 1979, EPA relaxed the ozone standard from 0.08 parts per million to 0.12. The new standard was based on a health study by DeLucia and Adams. In this study, six of 105 healthy people encountered some wheezing and headaches while running very hard on treadmills. Dr. Phyllis Mullenix of the

Harvard Medical School, in commenting on the ozone standard, said "the scientific consensus is that no adverse human health effects have been demonstrated to result from exposure to one-hour ozone concentrations below 0.30 parts per million." Thus the way EPA arrived at the new 0.12 ppm one-hour standard raises serious questions about EPA's commitment to an objective assessment of the available scientific evidence. As a result of these and other considerations API has filed suit in Federal Court challenging the 0.12 ppm standard.

It should be emphasized that relaxation of the ozone standard to 0.20 ppm or above as advocated by API would not eliminate ozone as a pollutant needing control. EPA's figures indicate that 12 urban areas exceed 0.20 ppm ozone. Concentrating expenditures in these areas would be a much better use of our resources than trying to obtain overcontrol everywhere.

COST VS. BENEFIT

In its deliberations on the Clean Air Act, Congress provided legislative history directing that EPA consider "economic end point consequences" in determining the National Ambient Air Quality Standards. However, EPA denies that it must consider the economic implications of alternate standards, since the Clean Air Act itself includes no precise positive statement on the subject. It seems reasonable to assume that Congress intended economics be considered in setting the Air Quality Standards, but there is obviously a question of interpretation that may some day be resolved in the courts.

Despite the differences of opinion, economics does govern how far any movement that costs money can go. The costs vs the benefits of pollutant removal must be considered, and to an extent they are. Congress, for example, set up a National Commission on Water Quality to study the impact of the Water Pollution Control Act. The act required the use of the Best Practicable Technology by July 1977 and the Best Available Technology by July 1983. The Commission found that the cost under the first step would be $209 per year per family. Under the second step it would be $468 per year per family—with essentially no improvement in water quality for the additional cost.

The same act set a goal for 1985 of ending the discharge of all pollutants. It is calculated that achieving this goal might cost $1,400 per family per year. This would increase the estimated total cost of enivironmental control from nearly $2,500 to over $3,500 per family per year.

Congress subsequently amended the act to eliminate the second step for all but toxic and non-conventional pollutants. But the goal of ending all discharge by 1985 is still part of the law. It seems that Congress still feels that zero pollution is an acceptable goal for society—regardless of cost.

HIDDEN COSTS

Environmentalists often point out that there are hidden benefits in pollution control which are unmeasurable; and there may be. But there also are hidden costs that potentially could counterbalance any hidden benefits.

One of these hidden costs is delay. It takes two to three years to obtain a permit to build a new industrial plant under the procedures outlined in the EPA regulations. Facilities to provide energy are delayed for years by regulatory red tape and lawsuits—

both made possible by the environmental laws. It now takes ten–twelve years from conception to completion of a nuclear power plant. Two oil companies have been trying for eight years to secure permits to build new refineries on the East Coast. They still do not have approval to build.

In 1976, the Federal Government sold oil exploration leases off New Jersey for $1.1 billion. Exploration was delayed for a year by an environmental lawsuit. Meanwhile the government retained the $1.1 billion, which cost the companies over $100 million in interest. Meanwhile continuing inflation added to the cost of exploration. Sooner or later all these hidden costs are passed on to the consumer in the form of higher prices, shortages, or both.

STATE IMPLEMENTATION PLANS

The Clean Air Act also prescribes that the responsibility for attaining air quality standards falls on the states. For this purpose, the state develops a State Implementation Plan or SIP. The more difficult the standard is to meet, the more stringent measures the state has to impose on its citizens and industry. If the state does not come forth with its own plan, EPA must prepare one.

Several years ago, when the Clean Air Act deadline for attaining the standards was 1975, EPA proposed a plan for Los Angeles. This plan would have reduced gasoline consumption by 80 percent by rationing. The response of the public was prompt, and Congress amended the act to extend the date for compliance —and ban gasoline rationing as a control measure. However, they did not even consider changing the standard.

The process is being repeated. The 1977 amendments require the states to submit a new SIP by 31 December 1978, and for EPA to approve them by 1 July 1979. To enforce this schedule, Congress wrote into the act the requirement that if an SIP were not approved by 1 July 1979, there would be a ban on industrial construction in the state and a loss of Federal funds for highway and sewage plant construction.

How is *that* schedule working? Not well. On January 1 only about 11 states had submitted plans; and as of this date no plans have been approved by EPA.

What is the problem? The problem is that only 21 of the 90 air quality regions meet the EPA standard for ozone. Most of the states cannot meet the ozone standard without transportation control plans. Transportation control plans involve restrictions on the use of private automobiles. The states find restrictions on private cars very unpopular. In fact, if restrictions are to be made on auto use, the states want the Federal government to do it.

At this point we have a suspenseful social drama unfolding. In soap opera terms it can be described as follows:

> Will the states submit SIP's which meet the requirements of the law and risk the adverse reaction of their citizens?
>
> Will the states submit faulty SIP's in hope that EPA will approve them, or at least take the heat for imposing severe control measures or sanctions?
>
> Will EPA stick to its program of enthusiastic enforcement of the law, or will it back off to avoid a confrontation with Congress and the states?
>
> If EPA forces transportation control plans, or sanctions against

states, will Congress amend the act to ease the impact?

If EPA approves plans which do not fully meet the requirements of the act, will the environmentalists sue to require enforcement of the law?

We will have to watch the TV news and read the daily papers to learn the answers to these questions. The acting will be forceful, but the key question—the validity of the ozone standard—is not on the list and is not likely to be raised by the states, Congress, or EPA. Industry is the only sector that has raised this issue and the American Petroleum Institute court challenge is unlikely to be settled in time to affect the outcome of the SIP drama.

CARCINOGENIC POLLUTANTS

Meanwhile, another serious drama is getting underway. The supporters of the no-risk cost-is-no-object concept have now switched their emphasis from pristine air and pure water to cancer. They are arguing that there is no known safe level of exposure to carcinogens and therefore emissions of carcinogenic materials must be reduced to the lowest possible level—preferably zero. No one is in favor of exposure to harmful amounts of carcinogens. But total elimination would be very difficult, if only because many natural materials are carcinogens. Benzene, for example, is a very common chemical found in a wide variety of foods including apples, tomatoes, cheeses, cooked meats, and roasted peanuts. Yet benzene has long been recognized as harmful, and industrial practices to control exposure have existed for a long time.

Another natural carcinogen is benzo-a-pyrene. It is a product of combustion. It was probably the first recognized industrial carcinogen, having been associated with cancer developed by British chimney sweeps about 200 years ago. As a product of combustion it exists widely in the environment. The largest source is believed to be forest fires.

Benzo-a-pyrene also is found in many foods. Some, such as lettuce, pick it up from the soil. Others, such as smoked or charcoal-broiled meats, pick it up in processing or cooking. It also occurs naturally in petroleum. For this reason we recently analyzed samples of waste water from refineries to determine how much benzo-a-pyrene they contain. We found less than 0.1 parts per billion. For comparison we analyzed a few pages out of a leading newspaper and found over 100 ppb.

A more striking example is aflatoxin. This product of a natural mold is a very potent carcinogen. Aflatoxin occurs in the roots of certain plants, especially peanuts, and the government has established a maximum level of aflatoxin for peanuts used for food. Eating one peanut butter sandwich per day has been estimated to cause a higher risk of cancer than living within 100 yards of a nuclear power station.

The widespread occurrence of natural carcinogens complicates what appears to be a simple decision: If it's a carcinogen, ban it. Thus we have another difficult question for our political system: What level of exposure to carcinogens is acceptable to the public? We expect that risk analysis will be studied intensively by both government and industry over the next several years. These studies should provide a basis for the important social and political decision of what is an acceptable health risk.

To put that desision in perspec-

tive, it should be mentioned that the leading causes of cancer are all voluntary acts. Smoking, drinking and over-eating are responsible for about 80 percent of all cancers. Industrial exposure to chemicals accounts for less than 5 percent.

IT'S UP TO THE PEOPLE

The United States environmental laws jeopardize the future well-being of its people. The overcontrol they either mandate or permit is too costly even for this affluent society to bear. It will not be easy to bring the laws and the philosophy that goes with them back to reality. But we see a few encouraging signs. The prospect that carcinogen risk analysis will be taken seriously is one.

Congress has already established a National Commission on Air Quality to conduct a thorough review of the Clean Air Act. If this group works as well as the National Commission on Water Quality, we may get more reasonable legislation some time in the future. And the Regulatory Analysis Review Group, set up by the White House to analyze the costs and benefits of Federal regulation, has become a constructive force.

What's needed now is a general realization by the American people that the high cost of overcontrol will cut deeply into family income over the next decade—without providing any measurable improvement in family health. Although the EPA has wide powers to modify its regulations, it will await word from Congress in the form of amendments to the environmental laws. And Congress will await word from the people.

ANNALS, AAPSS, 444, July 1979

Offenses Against the Environment and Their Prevention: An International Appraisal

By GERHARD O. W. MUELLER

ABSTRACT: While pollutants recognize no jurisdictional boundaries and, therefore, constitute a threat to people everywhere, there has been little effort to utilize criminal sanctions within the framework of international law to control them. A partial explanation for this may be the fact that there is really no effective enforcement mechanism for international criminal law; the United Nations International Criminal Court is still on the drawing board. Certain pollution offenses have become matters of international criminal law by being subjected to universal jurisdiction under national law. However, there are many problems that have inhibited the use of criminal sanctions for protecting the environment on a national level and these carry over into the international level. These include: qualification, quantification, strict liability, vicarious liability, corporate liability, proof, abuse of power, changing priorities, inadequate enforcement, and countervailing penalization policies and trends toward decriminalization. Even a cautious use of the criminal sanction to combat pollution will succeed only if there is a strong public awareness of the problem and a determination to control it; threats to the environment are not yet adequately perceived as posing a problem.

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The views expressed by the author do not necessarily reflect the official policy of the United Nations.

POLLUTANTS, once emitted on land, into space, the air, or the waters escape the control of the polluters. They do not conveniently stop at jurisdictional boundaries and may affect the well-being of peoples and lands elsewhere. Their impact may be particularly strong on certain catchment areas, whether bounded by mountains or by shores, but the ultimate catchment area is the globe as a whole, especially when damage to the ozone layer or the oceans occurs, or when radiation is released.

It is to be expected that a problem of such magnitude would become the subject of a concerted, worldwide effort to prohibit and prevent dangerous pollution by means of the criminal sanction, on the analogy of national experiences in seeking to solve by criminal law any social or economic problem which eludes control by other means. Yet, there has been surprisingly little effort to utilize criminal sanctions within the framework of international law in order to control pollution.[1] This should not come as a surprise since, as yet, the world lacks an effective enforcement mechanism for a true effectuation of international criminal law. The International Court of Justice at the Hague, an organ of the United Nations, has no criminal jurisdiction; the Nuremberg Tribunal was an ad hoc court and phased out of existence as soon as it accomplished its purpose, and the United Nations International Criminal Court is still on the drawing board.[2] But in a secondary sense, at least certain pollution offenses have become international criminal law by being subjected to universal jurisdiction under national law.

By way of example, the negligent release of nuclear energy and the consequent negligent endangerment of life or limb or of the valuable property of another, is punishable under articles 310b(4) and 5(1)1 of the Penal Code of the Federal Republic of Germany, regardless of the place of commission of the act; for example, Pennsylvania.[3] And if the Pennsylvania legislature chose to do so, it could, consistent with the principles of international law, subject that kind of activity to a Pennsylvania sanction even if that act were committed in China.[4]

Such examples to the contrary notwithstanding, there has been very little effort to control pollution internationally, or to control international pollution, by means of the criminal sanction. There is no mention of criminal sanctions in the entire compendium of legislative authority of the United Nations Environmental Programme (UNEP), although, from time to time, the authority to utilize criminal sanctions nationally for purposes of international pollution control has been recongized by international conventions. Thus, article 4 of the *Protocol for the prevention of pollution of the Mediterranean Sea by dumping from ships or aircraft*, stipulates that "The dumping into the Mediterranean Sea area of wastes and other matters listed in Annex I to this Protocol is prohibited."

The real reasons for the reluctance

1. One country, Argentina, has advocated the creation of the crime of "geocide."

2. Gerhard O. W. Mueller and Edward M. Wise, *International Criminal Law* (South Hackensack, NJ, 1965), ch. 5.

3. *Strafgesetzbuch* of 18 August 1976 (BGBl. I S.2181). Non-negligent, i.e. intentional, release of nuclear energy is subject to more severe sanctions.

4. Obviously, the enacting State would have to obtain personal jurisdiction over the perpetrator in order to initiate proceedings. In some countries, however, trial in absentia might be possible.

to use the criminal sanction internationally in order to control internationally significant pollution of the environment may have to be found in national experiences which have been fairly uniform in this regard; namely, uniformly inadequate. Our own common law experience may serve as an example.

The emission of noxious fumes or other substances into the environment, if done continuously, was regarded as a public nuisance, which ranked—and still ranks—as a misdemeanor in many American states, enlarged and altered, of course, by legislative authority. A few doubtful cases to the contrary notwithstanding, conviction of a nuisance requires some form of mens rea, usually guilty knowledge, or intention to pollute, or at least a strong case of criminal negligence.[5] Under those circumstances, convictions were hard to come by; and, indeed, would it make any sense to impose punishment for innocent, as well as guilty, accidental, release of pollutants?

There has been a whole battery of problems inherent in the use of the criminal sanction for purposes of protecting the environment. They can be conveniently categorized as follows:

- The problems of qualification and quantification;
- The problem of strict liability;
- The problem of vicarious liability;
- The problem of corporate liability;
- The problem of proof;
- The problem of the abuse of power;
- The problem of inadequate enforcement;
- The problem of changing priorities;
- The problem arising from the countervailing trend towards decriminalization;
- The problem arising from countervailing penalization policies.

Problems of qualification and quantification

The problem of defining and delimiting criminal conduct is big enough with respect to common and ordinary crimes, whether directed against the person or against property. It assumes virtually insurmountable difficulties in the sphere of environmental protection: What type and how much harm is to be covered by the prohibition? How can such elements of the offense be defined to give adequate notice to those governed thereby? How can one deal with the miniscule individual contribution to a pollution situation which is bad overall? How can rapidly changing national policies be accommodated by such statutes? Perceptions of danger change as rapidly as the use of chemicals and toxicants! It might appear that a broadly phrased anti-pollution statute offers the widest possible protection. But, as Swan has pointed out:

> The command, "Thou shalt not pollute!", cannot be made into a criminal offence without doing much . . . damage to the legal process. . . . The justification for such a law is often based on the need to spread the net to catch polluters widely. The safeguard against everyone's being convicted is said to be the responsible way in which charges will be laid and the prosecution conducted. The objection to this is that it gives the power to the government to harass individuals for whatever reason is thought good. This can only lead to a loss of respect for the law.[6]

5. G. O. W. Mueller, "On Common Law Mens Rea," 42 Minnesota Law Review 1043, 1087–1096 (1958).

6. John Swan, "Legislation and Human Settlement," P. Laconte, ed. *The Environment of Human Settlements*, vol. 1 (Oxford: Pergamon Press, 1977), pp. 73, 76–77.

Strict liability

Since it is exceedingly difficult to prove the customary guilty knowledge or criminal intent in pollution offenses, especially the criminal nuisances, legislatures have been all too ready to impose absolute criminal liability, that is, liability without fault. While the imposition of such strict standards has all the appearance of a civic-minded and responsible attitude, it has done little, if anything, to prevent noxious emission of pollutants. A rule which removes all defenses, for example, accident, "can be brutally absurd" by branding a person a criminal who did not have it in his power to act otherwise.[7] Most of the European countries have indeed maintained the mens rea requirement for pollution offenses, although France and Belgium have gone the other way.[8]

Vicarious liability

There may have been a time when pollution was normally caused by individuals. Today, pollution of any significance is a complicated industrial activity involving a large number of persons with conflicting or ill-defined responsibilities. The selection of the guilty parties is nightmarish; yet the public demand, often quite emotional, for the punishment of the guilty is strong. On the other hand, noxious consequences, if not easily discerned, can be camouflaged so as to allow those responsible to escape appropriate action. If the sanction is intended to have any regulatory, deterrent, or preventive effect, it must be directed against persons who have the power to act otherwise. Only a vindictive attitude can satisfy itself with catching all involved parties in the same net.

Corporate liability

The problem of corporate liability is, to some extent, a variation of the theme of strict and of vicarious liability. Nowadays most major commercial activities are carried out by corporate bodies. While civil corporate liability exists everywhere, in many continental countries corporations, as a rule, have not been subjected to corporate criminal liability for pollution. The utilization of criminal sanctions for individuals within the corporate structure runs into all the difficulties of vicarious liability, as just discussed. But in the Anglo-American countries, where corporate criminal liability prevails, the difficulties are no less formidable: If the electric company gets fined for a pollution nuisance, the price of electricity will imperceptibly rise, and the consumer suffers the consequences. If the company loses its charter or license, the shareholders—a large anonymous mass, normally of retired people—suffer as much as the people who will now sit in the dark.[9] I am afraid that the French and Belgian legislators, who propose to introduce corporate criminal liability for offenses against the environment, are deluding themselves into a false sense of security.[10] There has been very little if any empirical evidence of any successful use of corporate criminal liability in preventing pollution. But the situation may be changing some-

7. Ibid. See also G. O. W. Mueller, "Mens Rea and the Law Without It," 58 West Virginia Law Review 34 (1955).

8. Ryuichi Hirano, *The Criminal Law Protection of Environment: General Report* Tenth International Congress of Comparative Law, Budapest, 1978, p. 22.

9. G. O. W. Mueller, "Mens Rea and the Corporation," 19 University of Pittsburgh Law Review 21 (1957).

10. Hirano, *Criminal Law Protection of Environment*, p. 24.

what, inasmuch as corporate fines have recently been increased and, on occasion, are no longer nominal. The General Electric Co. was fined 7 million dollars, and Allied Chemicals 13.2 million dollars.[11] Fines of such enormity are powerful incentives to exercise corporate control. But inasmuch as many of the enterprises likely to pollute are in the public or quasi-public sector, the argument remains that the public will likely pay the fine, and the fine will simply be a license fee to pollute.

Problem of proof

The problem of proof is great in all criminal prosecutions since conviction requires evidence of guilt beyond a reasonable doubt, and perpetrators normally have every incentive to conceal their guilt. "Dangerousness" is difficult to prove in any case, even where overt behavior is concerned. The problem looms especially large in the sphere of pollution, where emission of pollutants is frequently quite furtive and difficult to measure, particularly wherever a number of polluters contribute to the hazard. Victims are quite frequently identifiable only as a group, who suffer the harm imperceptibly in their individual capacity, while the harm may be great in the aggregate. Effects may also be cumulative in time, and while difficult to prove, the impact of environmental damage on future generations is highly germane.[12]

11. Ibid.

12. Indeed, the U.S. National Environmental Policy Act (N.E.P.A.) of 1969 included the significant (and controversial) procedural requirement that all federal agencies prepare a detailed statement of environmental impact for every major federal action "significantly affecting the quality of the human environment," and consider alternatives to the proposed action.

Abuse of power

Polluters are, very frequently, powerful persons, bodies, or agencies whose very power shields them from detection, prosecution, or conviction. The law has yet to devise an adequate machinery to deal with the offenses of perpetrators who seem to be beyond the reach of the law, since it was designed for dealing with the criminality of the "poor devil." The fact that regulatory mechanisms often reflect the interests of those whom they purport to regulate does not help matters. The potential conflict between industrial development and environmental protection has all too often been exploited to press the cause of "development," though no intrinsic conflict between the two need actually exist.

The problem of inadequate enforcement

This problem is closely related to the one last-mentioned, and is particularly acute in many developing countries, even if appropriate provisions exist in the statutes. In some developed countries as well, (France, for example) it is said that the mere enforcement of existing laws would correct the process of environmental pollution.[13] Difficulties also arise from the fact that regulatory provisions are often complex and verbose, if not unintelligible, and that enforcement actions take a long time and are often ineffective. In the case of the N.E.P.A. the problem has been ascribed to the fact that efforts to en-

13. The January 1979 report of the United States General Accounting Office asserted that the Environmental Protection Agency inadequately monitored, inaccurately reported, and ineffectively enforced the nation's basic law on air pollution, though the Agency's present chief contends that corrective action has been taken during the last year.

force the law have been mostly administrative and that almost no legal action has been taken, with the result that major sources of air pollution are still not in compliance with emission standards. The 1977 amendments to the Clean Air Act were passed with a view to giving the E.P.A. additional authority to enforce the standards.

Changing priorities

Criminal law normally directs itself against conduct strongly perceived to be *contra bonos mores*. In the regulatory field that is not normally so. Acts are *mala prohibita*, rather than *mala in se*. And what is *mala prohibita* may change overnight. Yesterday's accepted fuel is recognized as being noxious today and as needing to be tightly controlled. Tomorrow we shall gladly sniff acrid sulphur because it seems less noxious than the radiation escaping from a leaky reactor. Under those circumstances, it becomes difficult to elicit the public condemnation which is necessary to unite the public and its criminal justice machinery behind a given antipollution prohibition.

This problem is nowhere as great as in countries undergoing rapid economic change. For as long as Japan was trying to establish its industrial dominance, it maintained the following caveat in its Basic Law for Environment Pollution Control: "The conservation of life environment shall be balanced against the needs of economic development." This provision was deleted in 1970,[14] when Japan had achieved its economic eminence. By the same token, developing countries will pursue a policy of belching smokestacks for as long as the development of the national economy is seen as requiring it; the air of Baltimore will remain unfit for human consumption for as long as the employment drive seems to require it, and the acrid smoke of coal will hang in our air for as long as the American Middle East policy keeps oil in short supply and alternative sources of energy are not tapped.

14. Ibid., p. 12.

Problem arising from the countervailing trend towards decriminalization

For a decade or more criminal justice experts have taken a sober look at the apparatus of criminal sanctions and come to the conclusion that the system has been overburdened with tasks which it cannot accomplish. Every conceivable social and economic problem was assigned to criminal law for solution, and the apparatus has failed. The result of these conclusions has been a trend to decriminalize the regulation of human conduct and to search for alternative methods of behavior control. This quite sound trend is now running into head-on opposition from those who place their trust in the criminal law for preserving the environment. At the United Nations Conference on the Human Environment (Stockholm, 1972), I was requested by the International Association of Penal Law to warn against a naive trust in the power of criminal law to preserve the environment. This attitude has, so far, prevailed. It is all too easy to conclude that simple criminalization of a given activity solves the underlying problem. Human experience is quite to the contrary.

Problem arising from countervailing penalization policies

As an outgrowth of the sobering reflections on the capacity of criminal

law to regulate human behavior, there has been—notably in North America—disenchantment with the utilitarian theories of punishment. Rehabilitation and deterrence, so it is said, do not have the desired impact. Consequently, nothing but a return to purely retributive theories of punishment can give legitimacy to criminal law. A fixed punitive sentence for every criminal act is called for.

Unhappily, this approach will not serve us when it comes to the avoidance of an avoidable evil. A retributive sentence, devoid of a utilitarian purpose, does not prevent the pollution from occurring in the first place. Yet, this is what must be accomplished for the protection of the human environment. It is, therefore, not going to be easy to buck the retributive legislative trend in order to establish a preventive penal policy for the protection of the environment.

From the preceding analysis it might be concluded that there is no place, nationally or internationally, for criminal law in the preservation of the human environment. Such a conclusion would be precipitous. Rather, it seems only judicious to warn against any rash call for a criminal sanction, along traditional lines, for an area of human conduct regulation as important as the preservation of the ecology because, in the regulatory sphere, the criminalization of certain undesirable behavior has for all too long served as an administrative placebo, interposed only to appease an agitated public. Human ecology is far too important to be virtually disposed of in such an irresponsible fashion.

Consequently, I can recommend only a contemplative approach which rests on research and policy choices in which the criminal sanction takes the place of the ultima ratio, as it should, indeed, in all other spheres of human conduct regulation. But before one proceeds to penalization, a number of prerequisites must be met first. Above all, danger levels must be ascertained and publicized. Means of control must be identified, appropriate policy options chosen, and norms and guidelines for control established for all parties to be controlled, especially industry. Licensing and inspection systems must be activated in a process which the Council of Europe refers to as consultation, authorization, franchise, and approval.[15] This presupposes, also, the creation of policymaking and implementing organizations which would visibly and effectively institutionalize the advocacy of environmental values in a country in such a manner as to minimize the shortcomings all too prevalent today.[16]

A system to determine failures of compliance, administratively or judicially, will have to be established next. This must be followed by individual determinations of failure to comply. Obviously, there *is* a use for the criminal sanction. Hirano classified the use of the criminal sanction for offenses against the ecology into four categories:

> The idependent use of the criminal sanction, by which he means the customary direct prohibition of certain harm;

15. Council of Europe, European Committee on Criminal Problems, "The Contribution of Criminal Law to the Protection of the Environment," Strasbourg, 1978, p. 15.

16. These include, in addition to the aforementioned susceptibility to special interest pressures, political patronage and controversy, an inability to attract and hold qualified staff and researchers (or their lack in developing countries), administrative overload, lack of resources, and insufficient coordination. See also, T. Gladwin, *Environment, Planning and Multinational Corporations* (Greenwich, CT: JAI Press, 1977).

The dependent-direct use of the criminal sanction, in which he includes statutes rendering certain polluting acts criminal if they exceed limits set by administrative provisions;

The dependent-indirect use, where the criminal sanction is reserved for penalizing noncompliance with specific rulings rendered by administrative organs which had been made against a violator of standards;

The preventive use of the criminal sanction, which penalizes failure to install or maintain prescribed antipollution equipment.[17]

In the past, legal systems have relied primarily on the independent use of the criminal sanction. The Anglo-American penalization of nuisances is a case in point. In all probability, future legislation will not follow its independent use but, rather, concentrate on heavy administrative underpinnings and technological prevention, so that dependent and preventive uses of the criminal sanction are called for.

But even this somewhat more cautious and sophisticated use of the criminal sanction to combat pollution can become successful only if there is a strong public awareness of the problem range, and a determination to control. Threats to the environment are not yet adequately perceived as posing a problem. The United Nations' world crime survey of 1977, to which 66 countries from all regions except Africa South of the Sahara contributed, asked, inter alia, whether the countries experienced problems with respect to crimes against the environment. Forty-four percent of the developed countries and only seventeen percent of the developing countries reported environmental criminality as posing a problem, with only very few countries reporting that stringent laws had been passed and were being enforced.[18] Thus, countries rated environmental criminality as a lesser problem than, for example, organized crime, which was perceived as posing a problem in fourty-eight percent of the developed countries and thirty percent of the developing countries.[19]

From the recently published study of the United Nations Social Defence Research Institute on "Perceptions of Deviance," we derive some interesting insights into public perceptions of the seriousness of "factory pollution," as contrasted with other crimes. The "other" crimes, or deviant acts surveyed were robbery, public protest, not helping another in a dangerous situation, incest, homosexuality, taking hashish, taking opium, appropriation of government funds, abortion, tax evasion, and not helping a policeman in a dangerous situation.

For India, an overwhelming majority of the population sample thought that the act of factory pollution, together with tax evasion, robbery, appropriation, and incest, should be prohibited by law and throught that it was prohibited, as indeed it is. There was less agreement on the penalization of the other acts, with a tendency not to criminalize abortion, not helping and public protest. Nevertheless, factory pollution was regarded as only "quasi-criminal" in nature, for which bureaucratic controls were favored, together with stiff fines. The urban population, incidentally, perceived

17. Hirano, *Criminal Law Protection of Environment*, p. 4.

18. "Crime Prevention and Control," Report of the Secretary-General, 22 September 1977, A/32/199 para. 32(b).

19. Ibid., para. 32(a).

factory pollution as more clearly deviant than did the rural population.[20]

In Indonesia, too, factory pollution was regarded as a serious deviance, but not quite as serious as the traditional crimes. Fines were preferred over other sanctions.[21]

Factory air pollution is not yet a criminal offense in Iran, although with its recent economic development the awareness of air pollution has increased. Water pollution was only recently criminalized and subjected to a maximum term of six months imprisonment. Air pollution may soon be added to this list.[22] Prison terms were favored for factory pollution, which thus was ranked in the same category as robbery, incest and bribery.

Italy, as represented by its island province of Sardinia, was also surveyed, and showed increased awareness of the pollution problem, as reflected in demands for greater criminalization.[23]

Yugoslavia, chosen as representative of the socialist countries, felt overwhelmingly that factory pollution should be criminalized, and a majority believed that it was already being criminalized when in fact it is not. Both factory and individual pollution were thought to be serious bureaucratic crimes, though the respondents preferred fines over imprisonment.[24]

For comparable views of American citizens, a sample of New Yorkers was interviewed. Factory and individual pollution, together with robbery, hijacking, selling and taking heroin, and tax evasion, were considered as deserving of criminalization and were thought to be criminalized, as they are. Taking heroin and factory pollution were thought of as just as criminal as traditional felonies, although factory pollution, a "bureaucratic crime," was deemed not quite as serious. In fact, serious fines were thought to be an appropriate sanction. Interestingly enough, the poorly educated, lower class young population saw government as least active in controlling bureaucratic crimes such as pollution, yet would report them more often to the police and saw them more often as serious.[25]

One might conclude that with the mass media focus on ecological survival accompanying intensified industrialization, the awareness of the danger caused by pollution increases and, thus, presumably the willingness to support control and the penalization of violations.

Difficulties remain, however, regarding the choice and enforcement of sanctions. The European Committee on Crime Problems recommended a system of administrative or penal sanctions which would include, on the administrative level, the drastic measure of closure of the works or withdrawal of the license to operate (which has the disadvantage of punishing workers as well as industry). On the level of criminal sanctions, there would be fines (day fines or daily contempt fines), actual, suspended, or conditional, with the potential use of the fines *pro bono publico*. Ultimately, sanctions of deprivation of liberty could be imposed, including custodial sentences or sentences of work for the benefit of the community, for those principally responsible for the offense. The Committee also contemplated class actions on the part of those affected,

20. United Nations Social Defence Research Institute, "Perceptions of Deviance," Report no. 1: India, by Graeme R. Newman (1979).

21. Ibid., Report no. 2: Indonesia.

22. Ibid., Report no. 3: Iran.

23. Ibid., Report no. 4: Italy (Sardinia).

24. Ibid., Report no. 5: Yugoslavia.

25. Ibid., Report no. 6: U.S.A. (New York).

in the sense of their right of joining the prosecution in order to recover damages.[26] The preventive effect of such procedures would be enhanced if it permitted citizens to bring environmental lawsuits without actually having suffered personal damage. The principles of equity jurisprudence can be asserted by the people under the principle of popular sovereignty in the defense of basic constitutional rights.

The Council of Europe proposal also, unfortunately, does not solve the problem of who, ultimately, bears the cost of pollution prevention. While members of the polluted community may become the beneficiaries of a fine paid by the polluting power plant, the members of this community will have to bear the cost of the fine as well, since the power plant will tend to deduct the amount of the fine (as well as the cost of converting to nonpolluting fuels or of installing antipollution devices) from the wages of those members of the community who happen to be employed in the factory, or else the cost of power will go up, with the increases passed on to the consumers. The community certainly will refuse to close the works that keep them out of the dark of night, the cold of winter or the heat of summer.

Perhaps not all polluters enjoy this ultimate guarantee of recompense for the cost of control, so that, in some spheres, to some extent, antipollution control can be enhanced by criminal sanctions. For example, the sanction could guard against letting control devices fall into a state of disrepair by suitably fining or otherwise penalizing the responsible party. But, ultimately, the question is not one of coercing compliance but rather of distributing the cost of compliance more equitably. This cost must be borne by all, since the benefits of ecological protection will accrue to all, but it must also be differential in the sense of being exacted most heavily from those best—rather than least—able to bear it. Only then can fines or other penalties act as an effective deterrent and improve the quality of life at minimum social cost.

It is obvious that much more work will have to be done before really promising solutions to environmental protection problems are found. Some other new directions are already being traced. Cost/benefit analysis is no longer dismissed by the regulators as irrelevant, and even embraced. A range of innovative approaches is being sought with emphasis on flexibility. "Performance standards," focusing on goal achievement, are replacing "specifications standards" which set out in detail how goals are to be reached. Legislation envisaged by some countries (for example, Switzerland) call for an "adjustment period" before imposing sanctions such as closing an enterprise, during which corrective action can be taken to meet postulated goals. Steps taken must also be seen in the broader perspective of national development and welfare and international consciousness, where definitions, needs, and planning indications are changing. The increased scope of environmental protection to include the exigencies of public health and well-being, for example, is in line with the adage reflected in the constitution of the World Health Organization that health is not merely the absence of disease and infirmity, but a state of complete physical, mental, and social well-being.

26. Council of Europe, European Committee on Criminal Problems, "The Contribution of Criminal Law to the Protection of the Environment, Strasbourg," 1978.

A more systemic and dynamic approach to the complex and interfacing problems of environmental protection is needed at all levels—national, regional, and international. Adaptive and increasingly preventive national strategies, formulated as part of comprehensive planning; collaborative regional arrangements to meet common problems; and international cooperation involving transnational action and global initiatives such as "earth-watch" are necessary elements of such a systemic approach. Criminal law and criminal justice can play a useful role in this perspective if utilized appropriately and imaginatively, as a reflection of and influence on public awareness and prevailing values, and as but one of the parameters—a functional, dynamic one—of which the system must be composed.

As for the use of the criminal sanction, we have yet to develop its really effective use for such nonconventional purposes as environmental protection. The existing need is increasingly recognized by governments and by professionals working in our respective fields. We look forward to the results of the twelfth Congress of the International Association of Penal Law, to be held in Hamburg in September 1979, which will address itself to the problem of "The protection of the environment through penal law." Some aspects, particularly those relating to crime—including environmental offenses—and the abuse of power, will be dealt with by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offendors (Aug./Sept. 1980), and by a meeting of experts on this subject, to be convened this July in preparation for it.

* * *

QUESTIONS AND ANSWERS

Q: Shouldn't rich nations and large rich multinational corporations be paying more for research and development in pollution control since the technology they have developed, and from which they benefit, brings pollution?

A: One of the few possibilities to utilize the criminal sanction against offenses to the environment lies in the area of controlling corporation profits. To the extent that you can take fines out of profits, it may be possible to pressure companies to comply. Ultimately, however, it may take sanctions other than fines to control polluters.

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Air Pollution Control

By JOSEPH PALOMBA, JR.

ABSTRACT: Pollutants—foreign material in the air—can be man made or occur naturally, and are concentrated where people are concentrated. Pollution is injurious to health and its prevention places an economic burden on the citizen. Amendments to the Clean Air Act, passed in 1970 and in 1977, have been utilized to control air pollution. They encompass different strategies which have met with varying success. Progress to date has been significant but it has been effected in those areas most amenable to control. Further emission reductions from automobiles, and transportation measures and programs will be more difficult to accomplish, but the challenge has been presented. The decision is up to the citizenry as to whether there shall be clean air for all—and at what price.

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AIR, IN ITS unpolluted state, is a mixture of gases which are odorless, tasteless, and invisible to the human senses. Normally it contains approximately 78 percent nitrogen, 20 percent oxygen, small amounts of carbon dioxide, argon and rare gases, and water vapor.

During most of the time we are unaware of the air surrounding us. We usually become aware of it only when the wind blows, the temperature changes, or visibility is reduced. All too frequently the reduction of visibility appears as a dark brownish-looking pall which hangs over our urban areas.

Technically, air becomes contaminated when anything is added to it. Air pollution has been traditionally defined as the presence in the outdoor atmosphere (ambient air) of one or more air contaminants, or combinations thereof, in such quantities and of such duration that they are, or may tend to be, injurious to human, plant or animal life or property, or which unreasonably interfere with the comfortable enjoyment of life or property, or with the conduct of business. More simply stated, air pollution can be defined as the presence of foreign material in the air. It can be naturally caused—by forest fires, volcanoes, salt sprays, dust storms—and man-made whenever any fuel or material, subjected to chemical or physical forces, releases airborne wastes or byproducts into the atmosphere.

People and sources of air pollution tend to concentrate in the same places. Pollutants arise as a result of almost everything we do in almost all human activity of work and play. It arises from combustion, volatization, chemical, and dust making processes, as well as transportation sources. Pollutants are great in number and vary in intensity and diversity in all our urban areas and in some isolated areas. Major sources such as large coal-burning power generating facilities which supply energy needs, small home heating furnaces, and the engines which propel our vehicles are all part of the problem. The collective output of these sources may run into thousands of tons of pollutants per day, all finding its way into what has become an aerial sewer.

EFFECTS ON HEALTH OF AIR POLLUTION

Our knowledge of the health effects of air pollution has been considerably amplified over the past several years primarily through three mechanisms employed by the scientific community. These methods include: statistical studies of past illness and death as correlated with geographic locations and known air pollution sources, and other factors associated with air pollution; epidemiological studies of death and disease, particularly respiratory malfunctions as related to variations in known air pollution concentrations; and laboratory studies of responses by animals and in some cases humans exposed to various air pollutants or combinations thereof.

Pollutants put into the atmosphere can, under the right meteorological conditions, accumulate to the point where serious results can occur. This phenomenon usually occurs when an inversion condition exists. Meteorologically, an inversion occurs when cooler air at the surface is trapped by a layer of warm air above. The effect of the warm air is to act as a lid, concentrating all pollutants close to the ground or their point of generation. This condition will persist until the inversion is broken by heating action of the sun or until blown away by the wind.

Helping to focus public attention on air pollution as a serious problem of modern times are several well documented episodes which have occurred in recent years. While these occurrences have been rare, they do help to reflect the serious nature of the problem. These episodes show, in fact even to the skeptic, that air pollution can and does cause illness and even death.

One of the first recorded major fumigations occurred in the Meuse Valley in Belgium in 1930. Sixty-three known deaths and several hundred respiratory disorders occurred in this heavily industrialized community where pollutants were trapped for several days. Later investigations showed the presence of some thirty different substances in the air.

In December of 1952, a review of the death registry showed some four thousand excess deaths occurred while London was experiencing a severe fog of high intensity. The majority of deaths occurred in those who were the most susceptible: the aged, the very young and those having prior respiratory system complications. Some four years later a similar occurrence, once again in London, raised much public concern about the problem.

In the United States, an episode in Donora, Pennsylvania in 1948, severe pollution in Los Angeles in 1945, and a large number of excess deaths in New York City following a period of air stagnation during the Thanksgiving holiday in 1966, have all served as dramatic proof that air pollution can kill. Evidence other than the above examples, imply less shocking but more extensive effects of air pollutants on the health of affected populations. Long continued exposures to sublethal concentrations of various polluting substances and combinations thereof is suspected of causing chronic physiological effects. Medical researchers are concentrating much of their study on the effects of low levels of air pollution on increased mortality and disease associated with the cardio-respiratory system, increased susceptibility to respiratory diseases including cancer, and interference with normal respiratory function.

ECONOMIC BURDEN OF AIR POLLUTION

In addition to its effects on health, air pollution places a heavy burden on citizens through increased costs. It can cause extensive damage through its effects on animals and vegetation, the soiling of materials and structures, corrosion of materials, depreciation of property values, and interference with air and surface transportation through reduction in visibility. Another major area of economic loss is that which occurs as a result of poor or improper combustion of fuel. While various sources quote differing figures, it is certainly agreed that air pollution and its control is costing the citizens of the United States tens of billions of dollars per year.

The cost of air pollution is reflected in yet another way. Costs of control are reflected in higher prices to the consumer for goods and services purchased. Major power generating facilities which supply our energy needs pass on to the consumer their costs of control. Controlling particulate (fly ash) and sulfur dioxide emissions, two of the most common pollutants associated with coal-powered electric generating stations, require very expensive and sophisticated control equipment with costs running into ten of millions of dollars. Yearly operating costs in en-

ergy and maintenance add significant costs to the purchase price of electricity.

Further complicating the issue and adding to the costs of air pollution and its control is the recognition that it is not a United States problem alone. Air pollution is more and more recognized as a global problem. Air masses recognize no political jurisdiction or boundaries, and in their movements frequently do violence to existing concepts of governmental control. As the problem continues to grow geographically, from well developed to developing nations, new administrative and governmental institutions will be needed to protect one of our more vital resources—the air we breathe.

AIR POLLUTION CONTROL IN THE UNITED STATES

Efforts to control air pollution in the United States really intensified nationally with major legislation passed in 1970, when Congress considered and adopted the first comprehensive amendments to the then Clean Air Act. Under the 1970 amendments, states were required to prepare and submit to the federal government implementation plans which were to include emission limitations and other measures deemed necessary to meet, by a certain date, standards which were designed to protect human health (National Ambient Air Quality Standards).

From the adoption of the 1970 amendments up to and including 7 August 1977, when President Carter signed into law the 1977 amendments to the Clean Air Act, significant progress in cleaning up our nation's air had been made. This progress is measurable in generally reduced ambient air levels of sulfur dioxide and suspended particulate matter, two of the most common contaminants found in polluted atmospheres in many areas of the country.

Trends in particulate levels since 1970 show a general improvement of about four percent per year with the result that 38 percent fewer people now are exposed to levels which exceed the health-related air quality standard. In spite of the improvements measured through an expansive air monitoring network, many persons are still living in areas which continue to exceed the health standard, and states are required to take the necessary steps to take care of the remaining problems.

Levels of sulfur dioxide in the air over the nation, particularly in major industrial urban areas, have decreased by about 30 percent in the period 1970–1975. Most of these decreases occurred in the early years of the 1970 Clean Air Act amendments when existing sources of sulfur dioxide were required to add controls. From a national perspective, urban sulfur dioxide has diminished so that only a small number of cities now exceed the health-related standard. This trend must be closely monitored since external pressures may change the situation. Los Angeles, for example, is beginning to see some slight increases in ambient levels of sulfur dioxide as the cleaner fuels such as natural gas give way to increased use of oil and coal for industrial purposes. In isolated areas, sources such as smelters pose a continued threat to air quality and further efforts are needed to gain control of the remaining problems.

The long term reductions in particulates and sulfur dioxide are the results of successful efforts on the part of State and local government air pollution control programs. However, these reductions would not have been possible without large ex-

penditures of resources and money on the part of individual sources of these contaminants. It is estimated that well over 90 percent of all stationary major air pollution sources are in compliance with state emission standards or are on a firm schedule leading to compliance.

Automotive emissions

No discussion of air pollution would be complete without referring to the automobile. The automobile as we know it today is the single most important source of pollution in most major metropolitan areas of the country. Even with a looming energy crisis, the distribution of our population, the comfort and convenience of the automobile, and our present life styles, suggest that the automobile will continue to play a dominant role in our transportation system for a long time.

Automobiles emit three major polluting gases: carbon monoxide (CO), hydrocarbons (HC), and oxides of nitrogen (NO_x). Carbon monoxide is a colorless, odorless, poisonous gas produced by the incomplete combustion or burning of fuels. CO has the effect of reducing oxygen available to the brain and body cells and is responsible for increased stress on the heart and lungs. Nationally some three-fourths of the carbon monoxide comes from transportation sources. In some urban areas the contribution may be as high as 95 to 99 percent. It can be a localized problem around a few streets or may be spread throughout major commuter corridors or activity centers.

The trend in concentrations of CO from a national perspective seems to be down. This is due in large part to the federal program of requiring motor vehicles to meet certain emission standards prior to their sale. Thus the sale of cleaner vehicles has tended to reduce the problem. Unfortunately, this is not the case in all parts of the country. Some areas, for example Denver, have a compounded problem due to its altitude and rapid growth in population. As a result it appears that steps must be taken to reduce or otherwise mitigate the contribution from the motor vehicle.

Ozone leads a double life—it is both essential and dangerous to health. In the stratosphere it forms a dense layer about ten miles above the earth that serves to filter the sun's damaging ultraviolet light. Without this protection epidemic skin cancer and other calamities could result.

Hydrocarbons and oxides of nitrogen, both found in automobile emissions, undergo a complex chemical reaction in the presence of sunlight to form photochemical oxidants—ozone or smog. Ozone in the atmosphere often results in eye irritation, lung irritation, and even changes in lung function. It is highly irritating material to all of the mucous membranes with which it comes into contact.

Ozone tends to be a summertime problem and usually forms downwind of its point of generation. Nationally, not enough data has been collected in sampling programs to determine specific trends. Some clues however seem to be surfacing. Reports indicate that California has had a general decline in ozone levels over the past several years in major metropolitan areas such as San Diego, San Francisco, and Los Angeles. In other areas where significant reductions in hydrocarbons have been achieved, similar reductions in ozone levels have not been demonstrated. More work and study with regard to the transport, reaction process, speed of reaction, and other factors needs to take place before the ozone problem can be fully understood.

Oxides of nitrogen, a product of all sources of combustion, particularly at high temperatures, has been implicated in lung irritation, crop and plant damage, and as a major ingredient in smog formation. It appears that oxides of nitrogen are increasing on a national basis mainly because of increased emissions from oil or coal-fired electric generating facilities and from mobile sources.

Despite the major improvements to air quality which resulted from the 1970 Clean Air Act amendments, many citizens and environmental groups viewed the clean air efforts of the country as dismal at best. Many felt and continue to feel that more could and should be done to clean the air, and repeatedly more people joined in a chorus of those calling for action. Major industry sources, particularly smelting and power generating facilities, were cited as being out of compliance with clean air implementation plans of many states. Automobile manufacturers were targeted as having been repeatedly granted delays in meeting more restrictive emission limitations from the mandated dates and deadlines spelled out in the Act of 1970 and prior legislation. Others pointed to what was considered even more bleak, in that many of our cities with major problems related to the use of the gasoline powered automobile were either unwilling or unable to enforce transportation control measures contained in their State Implementation Plans filed in 1972–73. As a result, Congress reconsidered the Clean Air Act and after a period of almost three years came forward with the 1977 Clean Air Act amendments.

The amendments are complex and some feel that there are many contradictions within the Act which will cause complex and protracted legal actions. The Act does give increased control to state air pollution control agencies over stationary sources at a time when most states had all but exhausted the legal avenues available to compel non-complying industries into effective air pollution control programs.

While it is still very early to determine accurately the progress made to date and what the overall effect of the 1977 amendments will be, there are some significant changes and additions which will strongly impact control programs throughout the country.

BASIC GOALS AND THE STRATEGY FOR CLEAN-UP

During the past eight years many conceptual and institutional problems were overcome and significant air quality management programs were initiated. The State Implementation Plan was first developed and implemented as a specific control mechanism during these formative years. In addition, the 1970 Clean Air Act amendments introduced a philosophical premise that the most practical and efficient means of air pollution control would result from a blend of two different but complementary strategies.

National ambient air quality standards

The first strategy was to authorize the Environmental Protection Agency to set national ambient air quality standards for any of the common and dangerous air pollutants. EPA set out by first developing Criteria Documents which examined the then known research and all available information relating to effects of the various pollutants at varying concentrations. What emerged was a check list of known or suspected reactions to known concentrations of pollu-

tants. EPA eventually established from the Criteria Documents, National Ambient Air Quality Standards for six of the most common air contaminants found in polluted atmospheres. They include: sulfur oxides, nitrogen oxides, particulate matter, hydrocarbons, photochemical oxidants (most often expressed as ozone), and carbon monoxide. The standards which were established for each of the pollutants were to be set at concentrations necessary to protect human health and were required to have a built-in margin of safety. Secondary standards were also developed which were designed to protect against welfare effects such as damage to property and vegetation, corrosion, and reduction in visibility.

Emission standards

The second and complementary strategy was to establish emission control standards which could be imposed upon sources of air pollution in order to bring their emissions below certain levels, thus allowing attainment and maintenance of the ambient air standards. Much technology was available to achieve the regulations at the time the Act was passed; however, there were some areas in which adequate control technology was not known or developed. Thus the Clean Air Act amendments were recognized as one of the first pieces of legislation to force technology as warranted in order to protect human health and the environment.

1977 Amendments continue the work

The 1977 amendments to the Clean Air Act, signed into law 7 August 1977, continue the basic premise of the 1970 amendments. The Clean Air Act amendments reaffirm the health protection aims of the 1970 Act while requiring new directives and tasks to be followed by EPA and the States. Emission regulations and ambient air standards are continued as basic tools in the control of air pollution; however, the 1977 amendments require that EPA conduct periodic reviews of the standards to ensure that they reflect new and updated information.

As mentioned previously, states were required by the 1970 Act to develop and implement state plans which were to include emission limitations and other measures to attain and maintain the primary National Ambient Air Quality Standards. The 1977 amendments continued this requirement by mandating states to submit revised State Implementation Plans to EPA by 1 January 1979. The state is required to delineate in the plan how it intends to attain and maintain the standards by 31 December 1982, a Congressionally-mandated time limit.

Non-attainment areas

So-called "non-attainment areas" (those areas not presently meeting the ambient standards) must have an approved State Implementation Plan submitted to EPA by 1 January 1979 (EPA must approve by 1 July 1979) which demonstrates how the State intends to meet the standards by 31 December 1982, (attainment of standards). This requirement is a precondition for construction or modification of major emission sources in nonattainment areas after 30 June 1979. In other words, *no* new construction or modification can occur after 1 July 1979 unless the state has an approved State Implementation Plan.

The Act provides that in the case of automotive related pollutants, carbon monoxide (CO) and ozone (photochemical oxidants), an extension of up to five years, until 31 December 1987, can be granted by EPA if the state shows that despite *all reasonably available* measures it cannot meet the standards by 1982. The extension is not automatic and can only be granted if further reasonable progress towards attainment is shown in the form of annual incremental reductions in emissions. Reasonably available measures are set out in Section 108 of the Act and include such measures as motor vehicle inspection/maintenance programs; improved public transit; exclusive bus and carpool lanes; programs for long-range transit improvements involving new transportation policies and transportation facilities or major changes in existing facilities; employer participation in carpooling, vanpooling, mass transit, bicycling, and walking; staggered work hours; control of on-street parking and off-street parking, and various other strategies enumerated in the Act. EPA has stated in their guideline Document OAQPS No. 1.2-095, 24 February 1978: "The process committed to in the 1979 plan submission must lead to the expeditious selection and implementation of comprehensive transportation measures."

Maintenance areas

For those areas which are cleaner than required by ambient standards, implementation plans must include an elaborate program to prevent the significant deterioration (PSD) of air quality. Three classes of clean air areas are established nationwide. All such nondegradation areas (those areas where air quality does not exceed the national standards) must be designated in either Class I, II or III, depending upon the degree of deterioration to be allowed, and specific limits are assigned to increases in pollutant concentrations for each classification. Initially, limits were set for sulfur dioxide (SO_2) and total suspended particulate (TSP), and maximum increases for these pollutants which cannot be exceeded were set for all classes.

Congress specified in the Act itself, those portions of the nation which were to be protected by the Class I designation. Class I allows for the smallest increase and is generally regarded as pristine. These include all international parks, wilderness areas, and national memorial parks over 6,000 acres. All other areas of the country were initially designated by Congress as Class II, with states generally free to redesignate them to Class I or III. Congress gave EPA two years to develop comparable limits to prevent significant deterioration by hydrocarbons, carbon monoxide, nitrogen oxides, and ozone.

In both nonattainment and maintenance areas, major stationary sources may be constructed only after receiving a permit and must, at a minimum, meet standards of performance prescribed by law. As a general rule this will require the use of best available control technology (BACT) in order to be granted a permit. In areas where the new source would generate pollutants which are already in violation of the federal standard, the source may be required to achieve an "offset" before the permit is granted. The offset will require the reduction of pollutant emissions in the area equal to or greater than that which the new source will generate. The objective here is to represent "reasonable

further progress" toward attainment of standards by the mandated time limit.

Congress further provided new incentives and disincentives for ensuring adequate attention by all states and sources to their air pollution problems. These appear in the form of sanctions and penalties to both states and sources for failure to demonstrate compliance with the standards. States may lose their funding for highways (other than safety requirements), sewage treatment plants, air pollution control grants, and any other federal grants which impact upon the State Implementation Plan, and industry is subject to denial of permits for new or modified plants, and to delayed compliance penalties which are in addition to any civil or criminal penalties. Such delayed compliance penalties are to be equal to the costs saved by the polluting source in not complying, thus taking away any profit advantage of non-compliance.

Special considerations

In adopting the 1977 amendments to the Clean Air Act, Congress was made mindful of every increasing pressure on the system. For example, in the area of transportation controls, Congress recognized that without local political support for programs which are conceived of as having a direct affect on lifestyles, there would be little chance of success. Thus states and local governments are given an even larger role in the development of state plans and, in fact, certain consultation requirements are specifically included in the Act itself. The Congress felt that this increased interaction called for by the Act will be the key to the development of successful transportation control programs.

Recognizing the importance of local government in programs affecting land use Congress artfully avoided any reference to land use controls in implementing plan requirements and went one step farther by precluding EPA from imposing indirect source review requirements on states. Indirect sources are those which by themselves do not create pollution but attract polluting sources (automobiles). Examples are: shopping centers, sports stadiums or complexes, and highways.

States or local governments, however, may adopt or retain such indirect source review programs and EPA may then enforce such measures if they are included as part of an approved State Implementation Plan. But the state is always free to revoke or suspend indirect source review at any time. EPA is only empowered to become involved in federally funded projects such as highways and airports or federally owned indirect sources.

Another provision of the Act seeks to bring public pressure on control officials to supplement the standard regulatory process. States and local governments, for example, must include in their enforcement provisions, effective measures to inform the public on changes to be made to the State Implementation Plan, particularly in the area of delayed compliance orders, and must provide opportunity for public hearing and public participation. The Act also allows any citizen to sue for action on the part of a State Control Official.

The Act further provides increased authority to the President to deal with possible statements between states and federal administrators. The Council of Economic Advisors is to conduct comprehensive investigation into economic measures to

supplement existing regulatory authority which will provide incentives for further emission reductions and controls which are not specified by any provisions of the Act.

SUMMARY

The Clean Air Act Amendments of 1977 not only reaffirmed much of the intent of the 1970 Act, but also equipped the EPA and States with new and stronger provisions and greater flexibility in developing control programs.

One such area is the provision in the Act which allows EPA to seek civil penalties for failure to comply with emission standards. The new law authorizes courts to impose civil penalties in the amount of $25,000 for each day of offense, taking into consideration the seriousness of the violation and the economic impact of the fine on the violator.

New regulatory tools of the carrot and stick variety include waivers of emission control deadlines for new and innovative technology for both mobile and stationary sources. Sanctions in the form of Federal monies withheld from certain projects and programs are of course significant motivation for states to develop adequate State Implementation Plans and to see that they are carried forward.

It is almost certain that Congress will be reconsidering the Clean Air Act in the near future. Pressures are already mounting on a national scale calling for re-examination of the high costs of control with small or inconsequential benefit to the public.

Criticism of the national ambient air standards has been one of the prime areas where pressure is being brought to bear on EPA and the Congress. Many legal challenges have been started through the courts and it is a certainty that these decisions when they are brought forward will significantly impact future air pollution control efforts.

The Act itself calls for reconsideration as is generally the case when legislation is written. Congress can, of course, reopen the Act at any time; however, it appears that 1981 was at least suggested as a target date. The 200-million dollar annual appropriation is only authorized through fiscal 1981, at which time new authorizations would be needed. This can be accomplished without substantive change but seems unlikely.

The Act's mandated dates for achieving attainment of the primary ambient standards by 1982 will almost certainly be another area with which Congress must deal. Many, including members of Congress, have expressed views that the deadlines are "legal fiction" but are necessary to keep pressure on the states and sources in order to maintain continued progress.

Last, and perhaps most significant, will be the recommendations which will ensue from the National Commission on Air Quality which was established by the 1977 amendments. This eleven-member Commission, appointed by the President, has wide latitude in studying various provisions of the law, as well as specific reporting requirements with respect to specified provisions within the Act. It is expected that significant reports will issue from this Commission with enough controversy to stimulate much debate and new information to warrant Congressional action.

The foregoing analysis of the Act is of necessity brief and many of the Act's provisions are very complex. It appears that much of the work which

lies ahead will be difficult at best. The progress to date has been significant but it has dealt with those sources which were and are amenable to control. Future efforts will be directed towards sources which will be much more difficult, such as further emission reductions from automobiles, fugitive dust emissions and control, and transportation measures and programs. While these programs will be difficult they are not impossible. The challenge has been made. It is up to all of us to determine, after balancing energy problems, employment, our ability to produce, and many other facets of our societal structure, whether we can meet the challenge of providing clean air for all our citizens.

ANNALS, AAPSS, 444, July 1979

Land, Water, and the Environment

By WILLIAM J. SALLEE

ABSTRACT: In a world of burgeoning population, land and water—resources which are essential to survival—are seriously threatened. Water is being polluted and good productive farmland is being covered by buildings and roads or lost to erosion through poor management. Land use planning is a crucial step in the protection and preservation of people and their environment. Decisions about how to effect it are important for today and critical for the future.

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IN JUNE 1972 a group of world leaders and environmental technicians met in Stockholm at the United Nations Conference on the Human Environment. Maurice Strong of Canada, who served as Secretary General of the Conference, stated "If Stockholm did not mark the beginning of a new age of environment, it did witness the establishment of environmental concerns as a major public issue on a global basis."[1] That conference included as one of the subject areas the "Planning and Management of the Human Settlement," topics related to land and water use planning. Since population pressures on ecosystems often result in the depletion or degradation of natural resources such as croplands, wetlands, wildlife habitat, water and energy, it is appropriate to note a few population growth facts.

POPULATION PERSPECTIVE

In 1950 there were 2.5 billion people in the world. In 1975 there were 5 billion. It has been estimated that by the end of this century there will be between 6.3 and 8 billion, depending on rate of growth stabilization. There has been a downward trend in the world's population growth in recent years. The Conservation Foundation in its monthly letter of February 1979 noted as follows:

> The Census Bureau says that, of the 50 most populous countries, containing 90% of the world's people, 24 experienced a reduced growth rate in the last decade. Most importantly, the global decline is reflected not only in a lower growth rate in the more developed countries—a well-known phenomenon which has been taking place for 15 or more years—but also in the less developed countries as a whole. These, of course, contain the bulk of the world's population, crowding, resource constraints, and economic problems. Thus:

	More Developed Countries	Less Developed Countries
Mid-1977 population (millions)	1,154	3,103
Average annual growth rate (%), 1965–70	1.0	2.4
Average annual growth rate (%), 1975–77	0.7	2.3[2]

The Conservation Foundation's February Letter further noted that every silver lining has its clouds wherein it states:

> Of particular significance is the fact that the growth rates of many countries are still extremely high and, like a supertanker, their population has enormous momentum. Every second, the world gains two and a half humans. Every day, some 215,000. Every year, about 78 million.
>
> The momentum of currently high rates of fertility will be greatly increased by the high ratio of children in many countries. In Mexico, for example, nearly half the population is 15 years old or less.
>
> Even if the world as a whole could attain a zero growth rate, the population would continue to grow for five decades or more afterwards.

The United States is now at a zero population growth level. The Census Bureau envisions a halt to growth by the year 2015 at a level of 253 million people compared to the present population of about 220 million.

Let's now put the population factor in another perspective as discussed

1. Report to the President and the Council on Environmental Quality. (Washington, DC: USGPO, 1973).

2. Conservation Foundation Letter, A Monthly Report on Environmental Issues, February 1979, (Washington, DC: Conservation Foundation).

by Lane L. Marshall, Chairman of the National Forum on Growth Policy, at a symposium on land use planning in 1977 sponsored by the Soil Conservation Society of America:

"Nationwide, it must be recognized that, by the end of the century, an additional 54 million people will need living space." The Task Force on Land Use and Urban Growth, chaired by Laurance Rockefeller, said that, even with zero population growth (the rate at which we simply replace ourselves), the population will not actually level off for 75 years. Moreover, migrations and new household formations will continue to complicate the picture. The Christian Science Monitor also reported that 27,000 new households—as many as in a city the size of Kalamazoo, Michigan—will be established every week between now and 1985. Each of these demand living space and services.[3] Kalamazoo is a city of 100,000 people; it takes up 40 square miles of land space.

At the 1978 annual meeting of the Soil Conservation Society of America, Dr. Gerald W. Thomas, President of New Mexico State University, stated, "At the heart of all environmental issues, including the world food problem, lies the population explosion. Whether we look at energy resources, land use, water, chemicals or other requirements for food and fiber production, all nations must become more concerned about irresponsible population growth and its impacts on the world's environment. Population control, therefore, becomes a necessity for man's survival."[4]

We must make provisions to feed, clothe, house and care for growing numbers of people. We must do so with the least harm to the environment. This will require the use of a concept of management of the environment rather than protection per se.

WORLD CROPLAND PRESSURES

Lester Brown in Worldwatch Paper on The Worldwide Loss of Cropland points out "Pressures on the world's croplands have escalated since midcentury as our numbers have increased, raising doubts about long-term food security."

"Growing populations demand more land not only for food production but for other purposes as well. Even as the demand for cropland expands at a record rate, more and more cropland is being converted to nonagricultural uses. In addition, the soaring world demand for food since mid-century has led to excessive pressures on the more vulnerable soils. This in turn has led to soil degradation and cropland abandonment."

In many countries we are seeing an accelerating erosion of soils, the spread of deserts and the loss of cropland to nonfarm uses. In many areas crop production yields have been declining, while in other countries such as the United States and Canada, the loss of prime cropland finds less productive lands being devoted to crop production."

As Mr. Brown noted, whenever data are available they usually show the growth of cities to be a leading source of cropland loss. Within the United States, cities or new urban

3. Lane L. Marshall, "Demands for Living Space," *Land Use: Tough Choices in Today's World*, (Ankeny, Iowa: Soil Conservation Society of America, 1977), pp. 62–63.

4. Gerald W. Thomas, "Resources for Food and Living: Sacrificed by Default? *Journal of Soil and Water Conservation*, vol. 33, no. 5 (Ankeny, Iowa: Soil Conservation Society of America, September–October 1978), pp. 219

areas are consuming prime cropland at about 1 million acres per year. A study in Canada reports that half of the farmland lost to urban expansion is coming from the best one-twentieth of the farmland.[5]

The U.S. Department of Agriculture's, Economics, Statistics, and Cooperative Service, reports that farmers are now cropping about 367 million acres, and are edging toward the upper limits of the cropland readily available for use. The current cropland base is 385 million acres (excluding cropland used for pasture).

About 2.7 million crop acres a year are lost, 500,000 of those go to urbanization and development of public facilities while 2.2 million are converted to more extensive uses such as grass and trees. However, about 1.3 million acres a year are added to the nation's cropland base through expanded irrigation, drainage, land clearing, and development of dryland farming. There is, then, about a 1.4 million-acre net loss in cropland each year.

In addition to the 385-million-acre cropland base, there are as many as 266 million tillable acres currently in pasture, forest, and other uses. Over 100 million of them are physically good enough to convert into cropland within a decade or two. About a fourth of this acreage could be brought into production with minimum investment. The remaining acreage would require conservation measures and would tend to be less productive. Given existing and foreseeable conditions, there should be no crisis in the national farmland situation, but care must be taken.[6]

A recent issue of Land Use Planning Report advises that the General Accounting Office is preparing a report which will project that farmland losses total 3 million acres annually compared to the USDA's projection. The report further notes that estimates of available surplus farmland have been overstated.[7]

In addition to the debate on amounts and quality of cropland loss and the level available in the future, concerns have developed on the potential for decline in productivity from constraints on the use of pesticides, fertilizers, energy and water. Add to these, the concerns about the growing world population and the potential need to increase the export of food and fiber from U.S. farms. While the debate goes on, many local and state governments, acting on concerns of citizens, are developing programs to cope with farmland loss.

PRESSURES ON LAND

Cities are not the only users of our land and water resources. Services such as transportation facilities, shopping centers, factories, energy producing industries, and similar uses also have an impact.

As we travel across the United States, Canada, and many other countries, we see cities and towns, shopping centers, highways, airports, and industries expanding into rural areas. This growth is taking up land and water which had previously been used for the production of food and fiber and these shifts are often occurring on some of the most productive cropland. It is level land and,

5. Lester R. Brown, "The Worldwide Loss of Cropland," *Worldwatch Paper 24* (Worldwatch Institute, October 1978), p. 5.

6. Melvin L. Cotner, "Land Use Policy and Agriculture: A State and Local Perspective" (Washington, DC: U.S. Department of Agriculture, Economic Research Service), February 1977.

7. Land Use Planning Report, 19 March 1979, (Silver Spring, MD: Business Publishers, Inc.).

therefore, offers few if any structural problems for housing construction or urban service industries. When these high quality croplands go under houses, concrete shopping centers, or highways they are lost forever to food production.

Six years ago, as a result of worldwide weather conditions, along with increased interest in many nations to improve the diets of its people, the United States had a major expansion in the export of grains and fiber products. Within a short period of time huge stocks of grains were essentially eliminated. Farmers were encouraged to produce to the fullest extent; restrictions normally in force were completely removed. That experience should be a forewarning as to the narrow margin of safety which the world faces in providing essential food and clothing for its people to achieve a good quality of life. Since this food supply experience of the early 1970s, there has been an increased interest in the supply of land. Many environmental leaders have become concerned about the use of natural resources.

"The use of land has become one of our most serious environmental concerns, and today's land use decisions will determine the quality of our life styles, environment, and life itself for decades to come," stated Dr. Shelley Mark, Director, Office of Land Use Coordination, the Environmental Protection Agency at the SCSA 1977 land use symposium.

He further noted that land use planning and decisionmaking is one of the most complex and least understood domestic concerns facing the nation today. The "frontier" land ethic, the rights of private property owners, the perceived prerogatives of local communities, the fluid roles of state and federal governments, and a variety of other deep-seated and long-standing values influence every facet of our present land use system. As a result, agreement on a national land use policy has been virtually impossible.[8]

The League of Women voters in a publication in 1978 on Preserving America's Farmland noted:

> As development starts to occur in a rural community, a chain of events is often set into motion. First, the cost of land begins to rise, often pushed upward by real estate speculation. As land values increase, so do property taxes and estate and inheritance taxes. Under the pressures of higher taxes and tempting offers from developers, some farmers sell their land or in the case of many western farmers, their water rights.[9]

In addition to the action of developers, the Federal and State agencies influence the use of land through their programs. A wide variety of Federal government activities have had the unintended but nonetheless powerful effect of removing large amounts of prime farmland from production. The major impact usually comes from the secondary effects of a federally funded project. A trunk sewer line can be built with almost no permanent land conversion. After construction, the sewer will be a key factor in determining growth patterns. Strip development is virtually guaranteed. This also causes the development value of the land to increase.[10]

Local land use control regulations may permit and, in some cases, even

8. Shelley M. Mark, "Land Use Allocation: Facing the Tough Choices," *Land Use: Tough Choices in Today's World* (Soil Conservation Society of America, 1977), p. 4.

9. "Preserving America's Farmland," *Natural Resources Current Focus* (Washington, DC: League of Women Voters Education Fund, 1978).

10. Environmental Comment (Washington, DC: The Urban Land Institute), January 1978.

encourage the development of prime farmland because this land is often considered "undeveloped." Decisions about the use of Federal funds, and local regulations or funding, determine future urban growth patterns and can adversely impact the retention of prime agricultural lands.

U.S. FEDERAL POLICIES

In recent years in the United States the Federal Agencies have begun to get "their Act in order."

In 1973 the U.S. Department of Agriculture (USDA) issued a land use policy statement and established a land use committee composed of leaders from the various USDA agencies. Following a seminar on the Retention of Prime Lands in July 1975, the Secretary issued a statement advocating the retention of prime farmlands.

Another major Federal action occurred in 1976 when the Council on Environmental Quality issued a memorandum which stated that the Federal agencies were to review the impact of their actions on prime agricultural lands and to make an effort to protect such lands from conversion to other uses. This policy has been reemphasized in the new guidelines on the Preparation of Environmental Impact Statements.

In October 1978, Secretary of Agriculture, Bob Bergland, issued a new USDA land use policy statement and held a news conference to discuss his concerns about the loss of prime croplands. He advised that "agencies of the U.S. Department of Agriculture have been directed to avoid proposing or assisting actions that could reduce the amount of land available for food and fiber production."

Secretary Bergland also said that USDA will intercede in decision-making by other federal agencies where conversion of important agricultural land is caused by other agency programs.

"We will continue to recognize and respect the rights and responsibilities of landholders in making private land use decisions," Bergland said. "But federal agencies oversee numerous programs that affect and sometimes encourage irreversible conversion of important agricultural land to other uses."

"We want land use decisions to respond to social and economic needs of local residents, but we also want to help protect the natural environment, develop high quality living space, and assure adequate supplies of food, fiber, wood, and water," he said.[11]

Implementation of the Secretary's directive is demonstrated in a February 1979 news release by the State Director of the Farmers Home Administration in Michigan who stated that FHA in Michigan would no longer make loans which would unnecessarily convert agricultural, timber and wetlands to other uses.[12]

States and local committees have a major role in these areas, but in many instances they are far ahead of the Federal Government. This first became apparent in 1973 at a National Conference on Managing the Environment. It was pleasing to learn how many local communities were concerned about the loss of prime farmlands and the waste of water. However, it was also true that their perspectives were shaped by

11. Secretary of Agriculture Bob Bergland, "USDA Sharpens Land-Use Assistance to Communities," USDA Press Release, 30 October 1978.

12. Robert L. Mitchell, Director, Michigan Farmers Home Administration, Press Release, 5 February 1979.

what was best for their local communities, rather than a concern for the broad aspect of national or global needs for these resources in the future.

LAND USE DECISIONMAKING

Each of us who owns a house, a yard, or a tract of land is a land use decisionmaker. We decide what grass to grow, where to plant a shrub or tree or if and when we want to sell. In the same manner, farmers who own and/or operate land, make decisions on what crops to plant, conservation practices to install, and whether to sell part or all of the farm to a developer or leave it to the children to farm. Here we have seen individuals as land use decisionmakers.

There are also group decisionmakers, such as developers, who purchase tracts of land and start new urban areas, expand present housing areas, or build shopping centers. Usually these actions are controlled by local governments which for various reasons may restrict uses of the land, or take other governmental actions, such as special taxation that will influence the use made of lands within its jurisdiction. The group decisions result in land use planning, land use policy development in broad aspects, and not directly in the individual land use decisions. These governmental land use policies and/or plans can influence where people live, the food we eat, and the costs and the availability of our food and shelter. These are often difficult but important choices in which individual citizens should be involved.

New techniques

Lane Marshall at the SCSA land use planning symposium noted that new techniques in land use planning have been developed during the past 15 years. He stated that one important aspect is the recognition that densities are not the sole measure of development quality. Innovative land use has recognized that within the framework of community growth there is a place and a need for a variety of densities. Another technique recognizes that open space is a key ingredient to quality growth. It is important that the open space be located where the people are located. There is a place for large-lot zoning and high-density zoning within every community. Attempts to hold growth solely to the single family zoning framework will only accomplish continued sprawl of communities with their attendant problems.[13]

Tools to guide growth

A variety of tools have been used in recent years for attempting to guide growth and/or preserve prime farmlands. Highlights of some of these tools include:

Differential Assessment Programs —Differential assessment is a set of laws under which farmland is to be assessed for taxes on the basis of its value in agricultural use, regardless of what other uses or values it might have. Forty-six states now have laws or constitutional amendments that permit local governments to carry out such programs. The laws vary in details among the States.

There are three broad divisions:

Preferential assessment—taxation of land on basis of farm value.

Deferred taxation—is preferential assessment designed to recover taxes that would have been paid,

13. Lane L. Marshall, "Demands for Living Space," *Land Use: Tough Choices in Today's World* (Soil Conservation Society of America, 1977), pp. 65–66.

if the land use changes or other conditions were violated.

Restrictive agreements—landowner applies to a local government authority and agrees to the use of the land. The tax assessment then is based on such permitted use. There is usually a renewal provision, so that the land is constantly restricted for 10 years or more.

The success of these methods on land use have been varied. In many states, land near the urban fringe is not enrolled. The farmers want to preserve their option to sell. The consensus is that differential assessment alone is not effective in preserving farmlands.

Agricultural Districts—An agricultural district is a defined geographic unit consisting of predominately viable farmlands. It is designated to encourage the continuation of commercial agriculture and discourage nonfarm development. Contiguity of farm parcels is emphasized in district formation.

The districts exempt the farmers from special tax assessments, restrict the local exercise of eminent domain, require consideration of the impact on farming before decisions by the state government are made.

New York enacted such a program in 1971. There are some 350 districts, covering about one-half of the state's farmland. Most good farmlands are in agricultural districts.[14]

California's agricultural land conservation program was enacted in 1965. It calls upon counties and cities to designate agricultural preserves. A contract between the landowner and the local government requires that the land not be used for urban purposes nor subdivided into urban parcels. The tax assessment is based on the land's capability to produce agriculturally.[15]

In 1973 Michigan enacted the Farmlands and Open Space Preservation Act. Landowners may receive special tax considerations by agreeing to keep land in agricultural production for ten years or more. A participant is entitled to a credit against his state income tax equal to the amount of property taxes in excess of seven percent of the household income, and to exemption from special assessments for sewers, lights, or other nonfarm public improvements. More than 81,000 acres of farmland were enrolled in 1975, producing tax credit for about 250 farmers.[16]

Ontario experience

A statement of the government's policy in planning for agriculture was revised in 1978 to be Food Land Guidelines. It tells lower levels of government in Ontario they should designate as agricultural all areas that have successful farming or soil with the potential to be farmed. Rural residential lots are not allowed within the high agricultural priority designated area. The level of assessment is dependent on the land's planning designation.[17]

14. Joseph P. Sullivan, "Agricultural Districts: The New York experience in farmland preservation," *Land Use: Tough Choices in Today's World* (Soil Conservation Society of America, 1977), pp. 122–124.

15. Robert L. Wall, "California's Agricultural Land Preservation Programs," *Land Use: Tough Choices in Today's World*, (Soil Conservation Society of America, 1977), pp. 131–133.

16. Lawrence W. Libby and Mark D. Newman, "Land Use Planning and Policy—Michigan in Perspective," Extension Bulletin E-1061, February 1977 (Michigan State University-Cooperative Extension Service).

17. R. Stephen Rodd "Planning for Agriculture, Suburbs and Rural Housing: Ontario's

Transfer of development rights

Transfer of development rights (TDRs) have become the "hottest concept" in land use controls in the past five years. TDRs are to provide some compensation for landowners whose rights to develop the land are restricted. Briefly, a number of development rights are assigned to each acre of land and then certain areas are zoned for urban development and others for farmland. Development is permitted in the growth area by purchasing the necessary number of development rights from farmers or open space owners. TDR programs have been developed in Suffolk County, NY, Buckingham, PA, Calvert County, MD and others. This approach has some limitations, such as administrative complexity and high cost to local government.

Rural use zoning

In Black Hawk County, Iowa, in 1973 the county began directing future rural residential growth. The ordinance was designed to preserve prime agricultural lands; residential development was directed to the poorer soils which can still handle such development. Soil survey information is used to implement these proposals.[18]

WATER AVAILABILITY

Water, like land, is a major critical resource. Since 1900, man has increased fourfold the globe's irrigated acreage to approximately 197 million hectares. Water will have to be available for producing food and fiber on many of the lands saved by good management in the future. It is estimated that agriculture is using about 80 percent of the water consumed in the United States.

The Carter Administration's attempts to make changes in water policy in the United States have been widely documented in the press. The Water Policy Study in 1977 developed staff papers on evaluation standards, cost-sharing, institutions, federal reserve water rights, water conservation, water research, and water quality. This year the President sent to Congress his "Water Policy Initiatives." He also directed the agencies of the executive branch to give greater attention to a number of reforms in water resource policy. Given particular attention are needs for water conservation and emphasis on nonstructural measures for reducing flood damages.

An interagency task force is now preparing recommendations on methods of increasing irrigation efficiency. But this is not an easy task. There may be production efficiencies in substituting water for other factors of production, like labor or capital, but that takes expensive irrigation equipment and other management shifts.

Depletion of ground water supplies in some areas is posing real economic problems for farmers and ultimately will affect farm related businesses. In areas where surface water can be used in combination with groundwater, the problem will be less severe. But declining groundwater tables mean higher pumping costs for irrigated farms and these costs will be increased further by rising energy costs. As with any resource policy issue, allocation of water to agriculture has both economic and political aspects. One's political position on the matter is

Experience," *Journal of Soil and Water Conservation*, vol. 34, no. 6, (Soil Conservation Society of America, January-February 1979), pp. 11–15.

18. Janice M. Clark, "Agricultural Zoning in Black Hawk County, Iowa," *Land Use: Tough Choices in Today's World*, (Soil Conservation Society of America, 1977), pp. 149–154.

largely a function of the economic impacts. Nonfarm interests may well outbid farmers for scarce water. The economics of water use is likely to be near the top of the natural resource policy agenda over the next decade.

We would not have some of the problems of water scarcity if man had located himself only in areas of abundant supplies of good water. The necessity or economic desirability for man to use all the land suited for agriculture has led him to settle in areas where good water supply is not permanently available. Population growth and economic and social factors have generated concentrations of people in locations where water demand has substantially outgrown water supply. Per capita water demand has increased while both the quantity and quality of the resource available has deteriorated.[19]

Because of severe drought conditions in some areas in recent years, people have developed a greater awareness of the finite nature of this resource. Among the measures used by some communities has been a massive educational effort to acquaint water users with the purpose and need for water conservation. One of the best examples of this occurred in the city of Denver, Colorado in 1977 and 78.[20]

RECOMMENDATIONS FOR THE FUTURE

If we are to maintain and improve our environment a variety of measures must be instituted

19. Lawrence W. Libby, "USDA Economic Perspectives on Natural Resource Issues" at National Food and Agricultural Outlook Conference, November 1978. (Washington, D.C., U.S. Department of Agriculture)

20. Journal of American Water Works Association, February 1978.

There must be new awareness among leaders of all countries as to potential dangers from expanding populations.

The food producing countries should unite in applying pressure on those countries needing food and fiber to develop population restraints. In some countries, family size and the attempts to control it are religious matters, but the disaster potential involves all people, irrespective of religion.

The irreversible loss of prime farmlands must be greatly reduced in the near future. Actions needed are:

A stronger posture by the President and other adminsitration officials on the issue,

A system of coordinating the 140 federal programs which impact on land use,

The development of national and regional seminars between leaders in the U.S. Department of Agriculture and other Departments with developers, architects and others on the issues and challenges of using lower quality lands for development. State and local governments should study their situation and, if needed, try some of the concepts being used by others, or develop new techniques in growth management.

The United States and other countries should develop special information and training for local and State Government officials dealing with the needs for land, techniques in planning, and experiences in implementing land use plans.

There should be an expansion in all countries of the effort to educate and assist all land users in the conservation and improvement of the soil resources.

An international effort should be undertaken to educate and explain the nature and management of our water resources, among all water users.

In the United States efforts to conserve and efficiently use water in crop production should be expanded.

Decisions made today and tomorrow will be critical to future generations.

NNALS, AAPSS, 444, July 1979

Environmental Problems of Developing Countries

By RASHMI MAYUR

ABSTRACT: The planet is over-populated and its limited resources, unevenly distributed among the world's people, are being used at an accelerated pace. The implications of man's violence to the environment are serious throughout the world and particularly in less developed countries such as India. Air, water, land, and noise pollution constantly imperil quality of life and must be controlled and managed with all the skill at our disposal if man and his environment are to survive.

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FOR A LONG time man has assumed that the environment enveloping his existence was invulnerable, bountiful, and immense in its capacity to support life. Events of the last two centuries have belied these presuppositions. The exuberance of the new era of technology and abundance has evaporated and the bright prospects of economic progress and superabundant living have been shattered by the discovery of the finiteness of the planet. With all the technological developments, the world still suffers from the scourges of poverty, disease, and misery, along with environmental degradation, destruction of forests, and extinction of many species.

The basic fact of this planet is that it is overpopulated. An increasing number of people are becoming urbanized, they continue to consume resources for survival, and to utilize them at an accelerated pace. By the end of the century, the population will swell to about 6.5 billion, two-thirds of whom will be living in developing countries. The prospect of supporting such a vast human population on the planet seems stupendous and grim, making the future of man unpredictable. It is now clearly recognized that urban man is continuously destroying many useful elements of life by using them indiscriminately and, consequently, degrading the environment which sustains life. It has been scientifically established that the ecosystem of the Spaceship Earth is fragile, limited, and that man's tampering with it may, in the end, make the earth unliveable, not only for man but for all life forms.

Man has begun to live in large agglomerations of millions of people; he has command of technologies which can take him to the farthest planets in the solar system; and he has unravelled mysteries that were secrets of nature only 100 years ago. In a sense, the twentieth century could have been a turning point in man's consciousness about himself and his universe, which should have freed the human race from the perennial threats of destitution, privation, and death. In reality, however, urban life in many parts of the world has become an insult to mankind because of the total degradation of people and their environment.

In this context, UNESCO's "Man and the Biosphere Program" (MAB) states its objective to be "development of a basis through natural and social sciences for the rational use and conservation of the resources of the biosphere and improvement of the relation between man and the environment." Further, it states that "the consequences of today's actions on tomorrow's world should be predicted and man must manage natural resources efficiently." This report succinctly underscores the uncertain future of man if the symbiotic relationship between man and his environment continues to deteriorate at the present rate.

All through the two million years of man's existence on the planet, his survival has been conditioned by the intricate balance among the various elements of the earth which have provided a continuous supply of materials for his needs.

During the last 300 years, however, man's relationship with the earth, its environment, and outer space has changed drastically because of the accumulation of vast knowledge, increasing technology, exponential increase in expectations and needs, and, finally, a quantum jump in human activities by exploding population. The technological revolution has ushered in a new era of transformation which has

not left any part of the biosphere untouched, directly or indirectly, making man's survival increasingly precarious. Urbanization, as well, has resulted in a new order of relationships between human society and the ecosystem.

The Earth went through a series of drastic changes for billions of years until, ultimately, life originated, leading eventually to the evolution of man. Only recently, extensive modifications of the environment have been generated by the complex web of human activities. Every moment man is displacing millions of tons of various elements from one area to another, transforming them from one form to another, and converting them into a large number of products through different processes. For example, 800 million tons of various metals are taken from the earth, 40 million tons of toxic chemicals, and 7 billion tons of conditional fuel units are consumed every year.

In short, the immense number of industrial activities of man are producing vast quantities of pollutants, which result in massive degradation of the environment. An alarming threat to the life-preserving ecosystem is evident around the globe. It can be observed in acid-rains, disappearance of plant and animal species, desertification, smog, destruction of coastal areas, dirty waterways, poisoned foods, and blaring noises. Looking at the plight of the enduring earth, what Barry Commoner once said seems to be true: "We have been living under a vast and potentially fatal illusion: that we can enjoy the enormous benefits of modern technology without risk to the integrity of human life and the environment."

Slowly, land, air, and water are being vandalized by man's vast, indiscriminate plundering of the environment. How far the ecosystem of the earth will be able to bear the threat before collapsing is only a question of time. Exploding population, increasingly complex technology, and careless use of resources have joined to face us with a triple danger. Unless man finds another suitable environment or creates a new one, or unless he adapts to the increasingly polluted environment, he must put the planet in order by restoring natural equilibrium if he does not want to face extinction.

POPULATION AND RESOURCES

One stark reality of the world today is that it carries the weight of 4.6 billion people, two-thirds of whom live in technologically less-advanced countries and 30 percent of whom—mostly in developing countries—live in perpetual poverty. About 35 percent of the people live in urban areas, mostly in the Western countries. Despite all the measures to control population, this year alone, 90 million more people will be added to the total population. It is in the context of such a vast population that the question of resources becomes urgent.

For thousands of years, man was not aware of the vast wealth of the earth. With the advances in technology, he discovered a great many resources, giving him a feeling that they were unlimited, abundant enough to last forever. Such a euphoria, however, did not last long; and now, in more recent years, it has been clearly recognized that many important materials needed for his development, progress, and survival are becoming scarce each day. Yet the demand and consumption of renewable and nonrenewable resources has been increasing by leaps and bounds. Many areas of the

earth are deforested relentlessly, leading to shortages of lumber, newsprint, and fuel. Despite several attempts to tap new sources of energy, the world suffers from an energy crisis which is worsening each year. In the coming years the world will face increasing shortages of many important materials.

In the less industrialized countries, three phenomena illustrate the stark reality:

> Population explosion—rate of increase from 2 to 3.5 percent per year;
>
> Slow industrial and technological development—an average industrial growth rate of 2.5 percent;
>
> Large-scale poverty—30 percent of the world population living in total deprivation of the basic needs.

No discussion on environmental problems of developing countries would be adequate without an understanding of these realities which face the vast majority of people in a hundred countries in Asia, Africa, and South America. The shocking contrast of living conditions with those of the industrialized countries is reflected in low life expectancy, meager water supply, starvation diet, vast slums, inadequate medical facilities, and the total wretched conditions in which people live. Despite all the efforts to bridge the gap between the industrialized and the poor countries, it has been widening consistently during the last thirty years and, unless some drastic changes happen in the international economic and political order, there will be two human worlds on the planet by the end of the century.

Many of the developing countries are located near the equator, have a great many natural resources and an abundance of sunlight. Their environmental problems are quite different from those in the industrialized countries. The developing countries are in a hurry to advance technologically while they are poor. Vast stretches of forests are denuded and because of the improper selection of technology, improper planning, and the lack of legal protection, the environment is polluted shamelessly. Some of the citites in developing countries are environmentally worse than in the industrialized countries; for example, Karachi is more polluted than Stockholm. It is in the framework of less developed countries that we must examine the environmental problems of India.

THE ENVIRONMENT IN INDIA

In the subcontinent of India, a large part of humanity is huddled together. The second most populated country in the world, with 635 million people, increasing at the rate of 2 percent a year, it will have approximately 900 million people at the end of the century. Seventy-eight percent of the people live in 560,000 villages and the rest in 4,000 cities and towns. The per capita income of India is approximately $150 per year. India is expected to produce 130 million metric tons of food this year.

For centuries a vast majority of Indians have depended on wood and cow dung for energy. Vast areas of India have been deforested through the centuries and there is no abeyance of this process in sight.

Simultaneously, with deforestation there has been a continuous danger to the wildlife. The examples of tigers and lions becoming endan-

gered species are too well-known to be repeated here. Recently, a survey identified that approximately 52 animal species in India are on the endangered list.

More seriously, however, India faces a crisis of clean and potable water supply. In the country as a whole, approximately 60 percent of the people do not get safe water for drinking and personal hygiene. Recently, a Union Minister said that over 25 percent of the urban population in India does not have safe water and 65 percent do not have a sewage system. It is estimated that the daily average supply of water per person in Delhi, Calcutta, Bombay, and Madras is 180, 140, 130, and 80 liters, respectively. Limited supply, poor quality of water, and waste are some of the major problems affecting urban areas.

In the rural areas the water situation is disgraceful despite the fact that under the Fifth Five-Year Plan it was expected that 90 percent of all villages would be provided with safe drinking water at a cost of Rs 550 crores.* Some time ago, the Central Water and Power Commission said that it would cost India Rs 5800 crores to provide minimum ". . . water supply to its rural population and an optimum level of water supply and sewerage facilities to the urban population." At the present prices, the figures will be no less than Rs 15,000 crores, and possibly even higher.

Considering the shortage of resources, it is fairly certain that the water crisis in India will deepen each year. A continuous supply of fresh water for everyone, as is available in industrialized countries, will remain an illusion for India far into the twenty-first century.

* dB = decibels.

POLLUTION IN INDIA

Rachel L. Carson once said, "For the first time in the history of the world, every human being is now subjected to contact with dangerous chemicals, from the moment of conception until death."

Despite the fact that India is a rural country, its air, water, and land are polluted by the endless streams of effluents and poisonous gases discharged by industries, power generators, transportation systems, and other human activities. Even modern agriculture has aggravated the problem of pollution by supplying nitrogen fertilizers, insecticides, pesticides and herbicides, which are washed off by rains into rivers and the sea. More seriously, many heavy metals, such as mercury, lead, and cadmium, are found in the waters of the River Ganges and the Arabian Ocean near Bombay. A recent survey of air pollution by the Bombay Municipal Corporation has identified heart and lung diseases, such as asthma, bronchitis, emphysema, and even tuberculosis and cancer, related to the air pollution.

Even though it is generally recognized that the urban communities suffer from acute forms of pollution, particularly air pollution and noise pollution, it is quite common to find paper, pulp, and sugar factories polluting rivers and streams. Many chronic diseases such as jaundice, cholera, and gastroenteritis, which are related to the impurities of water, are found in villages and cities all over India.

The total social and economic cost of pollution is yet to be measured. Except in the major cities, there is no awareness about the environment or pollution. There is no significant movement to control pollution or

improve the environment. On the contrary, many planners, administrators, and policymakers live in an euphoria of arrogance and complacency, assuming that everything is fine with the environment and pollution is either impersonal or an inexorable price of technological progress. Sometimes, it is even charged that pollution is a Western technique for keeping a developing country undeveloped. For some people "poverty is the worst pollution." There is no perceptible conservation movement.

Air pollution

Air and water pollution are the most serious and obvious. By and large, the crisis of air pollution is concentrated in industrial areas. The major air pollutants identified in the cities of India are carbon dioxide, carbon monoxide, particulates, hydrocarbons, sulphur dioxide, and nitrogen oxides. The major sources of air pollution in the urban and industrial areas are industrial processes (40%), transportation (25%), fuel production (25%), others (10%). Industrial processes include cement manufacturing, iron foundries, iron and steel mills, pulp and paper mills, petroleum refineries, phosphate fertilizer plants, coal cleaning, and the smelters of aluminum, copper, lead and zinc.

In the city of Bombay alone, air pollution has increased tenfold during the last 25 years. There are approximately 15,000 industries located in the city and 250,000 vehicles.

In the winter months, smog is a major menace in Bombay, Calcutta, Baroda, Durgapur, Ahmedabad, and Poona. In all these cities, CO and SO_2 have been significantly increasing in recent years. The trend extrapolation of the air pollution level in four major metropolitan cities of India has shown that it will be four times greater than what it is today, unless some drastic measures are taken immediately.

Unfortunately, there is no Air Pollution Act in India to date. It is hoped that the Act before the Parliament will be passed soon and the necessary measures taken to control air pollution. It would be helpful if the tree plantation programs in the cities were undertaken soon to aid in cleaning the environment.

Water pollution

Water pollution is equally insidious and more widespread than air pollution in India. As pointed out earlier, large and small water bodies around the country have become cesspools because of large quantities of effluents discharged indiscriminately. The major industrial offenders are petroleum, chemicals, paper and pulp, and sugar.

Another major contributor to water pollution is sewage from cities. Only seven percent of the population in India is covered by drainage systems and only an insignificant amount of sewage is treated. Development of sewage and drainage facilities has been miserable in most of the urban areas. Out of 4,000 cities and towns, hardly 250 have any sort of sewage system. More than 50 percent of the population in urban areas do not have this basic amenity.

It is also well known that most of the coastal areas around Bombay, Calcutta, and other cities are highly polluted. The Fishermen's Association of Bombay pointed out in 1978 that their fish catch had been reduced to hardly 15 percent of what they caught 25 years ago, and most of the time they have to go far out into the sea to get any significant catch.

Most of the beaches around Bombay, Calcutta, and Madras are not fit for swimming.

In 1974, the government of India passed the Water Pollution Act, requiring that each state set up water pollution control authorities. Most of these authorities lack funds, trained people, and facilities to implement the Act. Yet, within the last four years significant steps were taken to control water pollution problems in major cities by requiring the industries to set up pollution control measures and treat their effluent. The standards of effluent control are high, and it will require at least five more years before a significant impact on the quality of water will be perceptible.

The lack of sewerage and drainage facilities is a serious urban problem. It is estimated that the cost of cleaning rivers and coastal areas of India will be no less than Rs 7,000 crores. There are neither plans nor finances for such a gigantic task. Moreover, it is not realistic to expect a large number of cities and towns to have sewerage facilities when their basic problem is to supply the minimum fresh water.

However, in a warm country like India, many economical and simple methods of sewage treatment—such as oxidation ponds—can be designed. In the city of Bombay, plans are underway to dispose of sewage through outfalls, 10 kilometers into the sea. In Ahmedabad, where there is a sewage treatment plant, it is not used. Instead, because of its high quality of nutrients, sewage is utilized for growing grass. Some industries, like Union Carbide, recycle their effluent. In short, extensive efforts are underway to protect the water bodies from pollution.

Like supplying potable water, waste water treatment is an expensive proposition. With increasing industrialization and large concentration of population in urban areas, not only the need for a water supply has been accelerated, but also the amount of sewage produced has proportionately increased. Rivers and oceans have become receptacles for enormous amounts of industrial waste. It is seldom realized that the water system of the earth is rather fragile and its capacity to recycle and supply fresh water perennially is limited. In fact, several types of effluents have already destroyed marine life and depleted oxygen supply. Some of the poisonous elements even reach people through food chains, thus causing damage to our health. Oceans and rivers cannot be a panacea for liquid and solid waste problems. A scientific system of treating industrial waste is probably the only answer. Extensive research in this area will open new vistas for the development and protection of water resources.

Noise pollution

Among the various enemies of man, one that is most insidious, disquieting, and dangerous is noise, which menaces a large part of humanity now living as members of industrial urban civilization. Each year an increasing number of people are becoming urbanized; the number of cities is increasing, and their sizes are enlarging. In each city, man is exposed to a larger number of technologies, their products and by-products. One poisonous by-product of these technologies is pandemonium, which is becoming painfully louder each year, and may drive cacophonous urban dwellers to permanent silence.

In India the situation is dismally pathetic. Some years ago the Na-

tional Physical Laboratory conducted studies on traffic noise in major cities of India. The studies revealed that the street noise during the day in cities like Bombay and Delhi was intolerably as high as 90 dB* and it was seldom below 60 dB. Similar conditions exist in many other cities and towns around the country. In a recent survey by the Urban Development Institute, it was observed that Bombay was the noisiest city in the country with the largest number of moving vehicles (250,000). Its average daytime noise level was 75 dB, the highest being 105 dB near the airport. The main island continues to remain noisy even during the night, whereas the noise level in the suburbs begins to subside after 11 p.m. The main city can be called the "Island of Cacophony."

If the noise trends in Bombay continue at the present rate we shall, overall, add one decibel a year and reach a dangerous point by the turn of the century. Of the 7.6 million people living in Bombay, at least 30 percent are affected adversely by noise. Besides hearing impairment, they suffer from various other health hazards, including many minor disruptions such as sleeplessness, communication disturbances, and other ills. Much of the noise is created by the industrial aspects of the life we live, but a great deal of it is the result of improper values and unconcern for the environment.

Unlike the problems of other environmental pollutants, there is sufficient knowledge today to control and abate most sources of noise. Various technological, sociocultural, educational, and legislative measures are required to build a peaceful environment. There is no Noise Pollution Act in India today, yet controlling noise pollution is cheaper than controlling any other pollution.

Land pollution

The generation of solid waste in a developing country like India is quite limited. An average Indian produces 1 pound of garbage per day, compared to an average European who produces 4 pounds per day and an American who produces five pounds per day. Fortunately, urban refuse in the cities of India is mostly organic, containing very little plastic. Approximately 10,000 people earn their living by collecting papers, metals, and bottles, earning Rs 5–30 a day. The removal of recyclable materials is common all over India. In this sense, India is a highly conserving country.

Unfortunately, the remaining solid waste has been wasted by refilling the land. Recognizing that urban solid waste has a high content of organic materials, only recently a 300-ton plant has been set up in Bombay to compost it. Even though such compost would be 25 percent more expensive than the chemical fertilizers, its value as soil conditioner has been well-recognized; and it is hoped that soon many such plants will be set up in major cities of India to use solid waste economically.

In the rural areas, villagers always work in the closed-loop system of utilizing their limited solid waste for the purpose of agriculture or energy. During the last 10 years, extensive efforts have been underway to set up gobar gas plants to produce methane gas and use the remaining waste as fertilizer. Already approximately 80,000 such plants have been set up.

Even though there is no Act to con-

* A crore is 10,000,000; thus Rs 550 crore is 5,500,000,000 rupees. A rupee is about $.12; there are approximately 8.25 rupees to the American dollar.

trol solid waste pollution, this problem can be tackled more easily, without sophisticated technologies, for generating resources.

RECOMMENDATIONS FOR POLLUTION CONTROL

It is estimated that by the year 2000 approximately 335 million out of 900 million people in India will be living in about 5,000 urban settlements. Concommitantly, the march of industrialization will continue, resulting in increasing problems of pollution. It is not possible to slow down technological advancement, much less stop it, even in a poor country like India.

It is a sine qua non of planetary existence that man is symbiotically related to the earth's environment. While technological development must continue, its mindless recklessness towards the ecosystem must stop. We must check the environmental poisoning. In order to do so, it is imperative that some immediate steps be taken.

Decentralization

The most urgent task is to contain megalopolization of our cities through a definitive policy of decentralization. Plans should be made for regional development in order to distribute industrialization to various levels of settlements. In this sense, the present arbitrary division between urban and rural development should at once be eliminated, and balanced industrial investments, dependent upon various socioeconomic and environmental factors, must be encouraged. Many problems of urban pollution in India are due to the extremely high concentration of people in urban areas, generating an abnormal number of industrial and other human activities. Huge economic losses due to smoke, dust, and poor zoning practices, in addition to the creation of blighted areas in cities, are due to disorderly and haphazard development. The pollution problems in our cities can be attacked more systematically and effectively only if they are of manageable size. For most people, amorphous and large cities represent ultimate forms of degradation. Hence, we must approach our cities through systems planning, taking into account all aspects of urban life and, more importantly, the human consideration, since cities are built for people and not the other way around.

Industrial pollution control

It is cheaper to prevent pollution at the source than to treat it at the end. Too long, industries and government have taken for granted that pollution is a necessary part of production, and the cost of pollution has been externalized in the form of the price paid by the public through ill health or early deaths. Such externalization of cost must be stopped. Industries must have systematic plans of introducing pollution control technologies in different stages. And for this, if necessary, the government must give various incentives, even to the extent of financial assistance for pollution control.

If industries pose serious health hazards to the public in highly concentrated areas, as are posed by the Bombay Gas Company, it is imperative that such industries institute pollution control devices, be moved to safe areas, or even be closed. No industry has a right to play with the health and safety of a large number of people.

Municipal Corporations must prepare a long-range plan in terms of

settlements and industrial development in order that high-polluting industries do not become a menace to urban society. If such long-range planning had been done 25 years ago, the Fertilizer Corporation of India plant would not have been put in Chembur.

It is important to undertake preoperational surveys to determine the existing levels of contaminants and possible types of pollutants under the existing meteorological conditions before setting up an industrial plant.

Recognizing that resources are limited, all efforts should be made to recycle or recover whatever is possible from waste. For example, many plants have been set up in the United States during the last 5 years which produce 100 percent recycled papers.

Planning

From the above analysis, it is obvious that demands on the limited resources of the planet are increasing in geometrical progression, due to the fast growing population and their insatiable needs. If the standard of living of an average American is taken as desirable, than hardly half a billion people in the world can survive. Unfortunately, the resources of the world, particularly in a poor country like India, are inequitably distributed; so also is technological development, resulting in a tremendous waste on one hand and deprivation on the other. With all the technological developments, it does not seem possible that even the present population of the earth can be supported at the minimum expected level. Yet, the population goes on increasing unabated. No technology has made a significant impact on this problem.

On the other hand, there is a limitation to the resources and their growth, and scarcities are growing relentlessly everywhere, leading to an ever increasing struggle for them. Some of the perishable resources will be exhausted in time, whereas the renewable resources will remain limited.

Logically, one hopes to find a solution to resource scarcity in a technological leap, but that turns out to be illusive at each stage. Side effects of some of the technologies are gross and dangerous, as in the case of the automobile, and the development of pollution-control technologies is rather slow and costly. In these circumstances, one clear alternative is to take stock of what is available and plan growth in a limited fashion. In this respect, it is imperative to include the devastating cost of pollution when computing the cost of technology. Some amount of pollution is necessary as a price for progress; but it cannot be allowed to reach the irreversible level where it destroys the fundamental-life supporting system on which man has to depend. In a simple sense, planning is a process of mobilizing limited resources for directed goals in order to optimize development.

Such planning will require the following deliberate efforts:

objective assessment of available resources;

broad understanding of all the available and possible technologies—their cost, capabilities, and side effects;

determination of the optimum population which can be supported within the given system and keeping it at that level until change is warranted;

control of all production which is nonessential and wasteful until

the basic requirements of the population are met;

setting priorities in terms of allocation of resources for accelerated growth and development without any damage to the ecosystem;

developing technologies and processes which would assist nature to recycle resources for multiple utilization;

matching human and physical resources in effective relations in order to optimize the results;

exploring new sources of acquiring and producing resources for developmental purposes;

identifying future trends concerning man, his demands, resources, and possible technologies;

finally, managing man and physical systems efficiently and effectively;

Government

An Environmental Planning Ministry should be established on a national level, with state and municipal subsidiaries. The task of such a ministry or agency should be:

To collect overall data on environmental conditions, pollution, and environmental damage to health, as well as on other aspects of human urban life.

It should have strict legislative authority and the machinery to control all forms of pollution—air, water, noise, and thermal.

There should be a master plan for total urban development which would emphasize scientific and aesthetic environmental planning.

The government mus support and encourage research in pollution control technologies either through industries or universities or other educational institutes.

And, most importantly, such an agency should have the expertise available to guide and advise industries or other agencies on how to control pollution.

There is no escaping the fact that definite standards and norms must be established and enforced.

Conservation

There should be a total plan for conservation of the environment—beaches, parks, lakes, rivers, and streets. In this regard, we must create a green belt around each city in order to stop the endless sprawl. More than 10 years ago London declared a five-mile green belt, as did Leningrad. India has been continuously deforested. At the present rate of destruction of trees, there may not be any forest by the end of the century. A massive program of creating forests and planting trees should be enunciated immediately. People should even be encouraged to grow plants in their homes.

Vast areas around cities like Bombay remain fallow and are not cultivated. Special efforts should be made to develop large vegetable gardens to supply the city, as is done in Peking and Osaka. Solid waste from the city can be composted and used as fertilizer for these gardens.

Education

Ultimately, environment belongs to the people. If people are apathetic, careless, and callous, no one can protect the environment. The result will be cities that are vast dumps of environmental garbage. The most important lesson to be learned from ecology is respect for the environment. Our urgent task is to inculcate *ecological conscience*: maintaining a reverence for our surroundings and nature cannot be taken for granted. For this purpose, educational programs must be undertaken through television, films, radio, newspapers,

and schools. Such education should teach people not only simple things like where to throw garbage, and how to keep places clean, and why not to make noise, but more importantly to understand legislation and how to use it for the purpose of protecting society. Ultimately, people must develop a sense of beauty and humane environment.

Society

Recognizing that India is a poor country with limited resources and a large number of people, protection of the environment requires immediate limits of exploitation. Population must be controlled immediately. All wasteful use of resources must be discontinued. For example, if 25 percent of the pollution in cities like Bombay is due to automobiles, all our investments must be in public and mass transportation systems in order that the use of private automobiles is reduced or even discontinued.

Since resources remain limited, urgent priorities should be set up for their equitable and judicious utilization. There is no other way to bring environmental equilibrium. Society divided between stark poverty on the one hand, created by Malthusian refugees, and reckless waste on the other, generated by Madison Avenue Mandarins, threatens urban man with pollution, sterility, and unstable society.

Pollution is a disease of environment. Man has originated and survived because an environmental equilibrium has provided all the ingredients for the realization of his immense potential. This equilibrium cannot be distorted or dismantled without jeopardizing the very survival of man. To assure that survival, society must treat the environment with cooperation and a sense of commitment. This demands sacrifice and may mean a simpler style of life for all—a revolution in thinking to go beyond prestige, power, and profit. The proper utilization of technology for quality of life will release innumerable potentialities of man and nature for his ultimate happiness.

CONCLUSION

We must recognize that the Spaceship Earth and the life on it are delicate, limited, and finite. In the total resource system, water, air, and land play a vital role. The supply of many resources on earth is predetermined and, with increasing demand, it has become scarcer at each stage of industrial development. It is possible to provide the minimum for survival, to every Indian.

In a country like India, which is technologically less advanced, such a task is steep, requiring some bold, imaginative, and ruthless measures. If, however, the present trends continue, then the resource crisis will reach a catastrophic proportion by the end of the century, driving half the population of the country to wretchedness and simultaneously destroying the very fabric of the environment which preserved the civilization for many milennia.

There is an insidious attempt to confuse the issues of poverty and pollution. While pollution in developing countries like India is growing steadily, damaging particularly the poor sections of the society, pollution control technologies developed in industrially advanced countries have achieved benefits through massive environmental cleaning programs supported by vast sums of money. Such is the case in the United States, for example, where according to the Fifth Annual Report of the Council

on Environmental Quality, that country will spend $20 billion a year until 1982 for environmental improvement. In India, the pressing need is to bring economic growth through agricultural and industrial development, which will also accommodate the increasing population pressure.

It is precisely because India is a poor country, and large masses of people in the cities are degraded to squalid conditions, that environmental degradation becomes a serious threat to development and even survival. While, in our cities, pollution in all forms is increasing exponentially, the resources necessary to meet even the basic needs of the people are depleting very fast. The discussion on pollution and poverty boils down to the question of resource generation and resource utilization. Our ingenuity must be used to convert waste into resources. India can and should attack the problems of pollution and poverty simultaneously.

In the end, it must be recognized that the environmental crisis is as real as any disaster. Before the country is turned into a wasteland, we must dispel two illusions; the environment, in the form of air, water, and land is not given to us free; and the technologies have answers to all our problems. We must work out an environmental equation which can give us a picture approximate to our conditions and, at the same time, point out possibilities for creativity and beauty unknown to man in all the past ages.

The ultimate hope of survival for human society depends upon a clean, safe, and healthy environment. To quote Barbara Ward and Rene Dubos: "Alone in space, alone in its life-supporting systems, powered by inconceivable energies, mediating them to us through the most delicate adjustments, wayward, unlikely, unpredictable, but nourishing, enlivening and enriching in the largest degree—is this not a precious home for all of us earthlings? Is it not worth our love? Does it not deserve all the inventiveness and courage and generosity of which we are capable to preserve it from degradation and destruction and, by doing so, to secure our own survival?

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ENVIRONMENTAL ALTERNATIVES AND SOCIAL GOALS

By RICHARD E. HECKERT

ABSTRACT: The main environmental decisions we have to make are social as well as scientific in nature. Lack of a consensus on environmental goals, insufficient understanding of opportunity costs, and the growth of an adversarial political process, all make informed decisionmaking difficult. These problems will not be solved quickly or easily, since varying definitions of environmental protection—providing healthful living conditions for man vs. minimizing man's effect on nature—combine with differing political and social beliefs to create basic conflicts. But the process can be improved if those who are able to look at issues holistically and objectively foster interdisciplinary research into environmental problems. Political and social scientists can help by assessing opportunity costs, by clarifying the issues through analysis of the basic values of contending groups, and by communicating research results to the public, which should then be able to choose more wisely.

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DURING the past four decades, businessmen and academicians have tended to work in different worlds. Business saw its role as supplying the goods and services society needs and wants. In technology-intensive businesses, the closest ties with academe have been through the physical sciences and the business schools.

Political and social scientists have been involved with the ways entire societies structure themselves and choose among conflicting values in a world of limited resources. However, a very important transition is under way in our country. The worlds of the businessman and the political and social scientists are becoming much the same. At least industry is caught up with the same processes and shares many of the same concerns that academicians must have. It seems a propitious time to try to understand one another better.

The decisionmaking process in a democracy with a market economy is simple in concept, but incredibly complex in practice. Young people are told that they have both the right and the obligation to speak out on issues that concern them, but they don't receive very good explanations of the complex interactions among legitimate, competing social goals—including the attainment of a satisfactory standard and quality of life.

Following is a discussion about the environment and the problems business and academia share in making intelligent decisions about some very worthwhile goals. Companies which do a creditable job in developing new products and processes society needs, and which strive to do it in an environmentally acceptable way, find—when they consider environmental alternatives—that many of the key decisions which have to be made involve social issues at least as much as questions of science. Technology alone will not solve problems. Value judgments must be made and consensus politics developed if success is to be achieved.

At the present time there are three basic factors that must be considered.

- First, that we do not have a solid consensus on environmental goals.
- Second, that the trade-offs required to implement existing environmental programs and directives are not recognized, or tend to be regarded as inconsequential compared with benefits.
- Third, that our current political process involving environmental issues does not provide for thoughtful consideration of all relevant data, and does not allow the flexibility needed in the rate at which we move toward specific objectives.

These three points lead to a fourth: that there is an important role for political and social scientists in this overall process. It is reasonable to assume that businessmen and academicians will find some common ground on environmental questions if given a chance.

Consensus

If there is a consensus on environmental goals it exists only in the loosest sense. Definitions of environmental protection differ widely. They have deep roots in our views of technology, even our ideas about what makes human beings fully human.

One position is well articulated by Dr. Merrill Eisenbud, New York City's first Environmental Protection Administrator and currently director for New York University's Laboratory for Environmental Studies, who suggests that our main goal

in environmental protection should be to provide healthful living conditions for man. In a recent book, *Environment, Technology and Health* he wrote that "The environment is more than the air, water, land, and presence of living things. Environmental deterioration threatens our well-being when air, water, or food become contaminated, but also when government breaks down, or our cities are destroyed by war, or free passage in the streets is interrupted . . ." He suggests that technology is often an ally of environmental quality, thus defined, "since, only in the last few hundred years has technology begun to release us from enslavement by an environment in which we are at a disadvantage in so many respects."[1] Optimizing man's environment according to this way of thinking, may require technological development which leads to some environmental impurity. Indeed, at the extreme, environmental purity and poverty are not far apart.

But that view is very different from defining environmental protection as the attempt to minimize man's effect on nature. This position is well articulated by the Sierra Club, an organization which has drawn to its ranks many distinguished and thoughtful people. The Sierra Club has defined a "degraded environment" as any place that has been affected by human activity. Other groups have also equated environmentalism with "anti-tampering," as William Tucker, a *Harper's* magazine contributing editor, has pointed out. "Anything that is untouched by humanity has become sacred."[2]

This is an important concept because there are many examples of "tampering" with nature that have saved or greatly enriched lives. Our phenomenal increase in food production has been made possible in large measure by man-made fertilizers and the much-despised pesticides. Huge dams in the Tennessee Valley and the western states have provided flood control, electricity, and water for formerly arid lands that now supply our finest produce. Our transportation system with its large environmental impact, though not optimum for a world running out of oil, is central to our economy. The earlier, widespread use of DDT virtually eliminated some insect-borne diseases—not a minor issue for those living in the tropics.[3] To be fair, though, we cannot deny the charge that "tampering" has also changed some natural processes and endangered some species and subspecies. Thus the old buzz word "priorities" rears its unwelcome head, carrying with it all of our diverse economic, political, and religious beliefs.

In economic and political circles, there are sharp differences of opinion over the way and extent to which natural resources should be used to satisfy public demands for products and services. Plastic heart valves, arteries, mechanical limbs for the handicapped derived from petroleum—almost everyone says "yes" to those. Automobiles? Permanent press shirts? Most people like them; but some don't. Synthetic packaging materials, without which our modern retail stores and distribution systems could not exist, draw somewhat more fire. Who, then should decide

1. Merrill Eisenbud, *Environment, Technology, and Health* (New York: New York University Press, 1978), pp. 8–9.

2. William Tucker, "Anti-Tamperism," *The New York Times*, 7 November 1978, p. 45.

3. For additional discussion of this see Norman Borlaug, "Mankind and Civilization at Another Crossroad," *Bioscience*, vol. 22, no. 1 (January 1972), p. 44; Peter Drucker, "Saving the Crusade," *Harper's Magazine*, January 1972, p. 76.

what should be made and what should not? Some say the people themselves, expressing their desires in a more or less free market. Some say an administrative body.

As for the religious beliefs, you do not have to be a theologian to realize that many in America no longer embrace the Judeo-Christian concept that man is placed on this planet by God to have dominion over, and responsibility for, nature. It is no longer unusual to see books with titles such as *Animal Liberation* and articles with titles such as, "Do Rocks Have Rights?"[4] (The suggested answer is yes.) William Tucker recently described the situation as follows: "There is an overwhelming tendency in [this kind of] environmentalism to worship nature and to record humanity as an intruder in the divine order . . . our very existence in and dependence upon nature becomes a form of 'original sin.' "[5]

Even on well-defined issues, and within groups of people from similar backgrounds, opinions vary greatly. One example of this is a question which is provoking heated discussion among oil companies, hydrocarbon-user industries and government agencies. It concerns the regulation of hydrocarbon emissions which, in turn, relate to oxidants in the air. The atmosphere, of course, carries a natural load of hydrocarbons—methane from decaying organic matter is only one example. The Blue Ridge Mountains are blue in part because of air-borne terpenes produced by evergreen trees. Man's contributions, ranging from approximately 10 to 50 percent of the total, come mostly from the internal combustion engine and various industrial sources. What to do about these man-made additions may or may not be an important health question, but it certainly has important economic implications. Looking at essentially the same data intelligent people make quite different judgments.[6]

On one extreme, there is a shrinking minority: those who would do little or nothing. They say that a U.S. chemical industry capital expenditure of $1 billion to control 90 percent of the industry's hydrocarbon emissions is just too much. They are upset by the cost of control. They discount the benefits.

In the middle are those who think a $1 billion expenditure to reduce emissions 90 percent may be reasonable, since excessive oxidants generated by the hydrocarbons could affect human health. They applaud the benefits of pollution control, but they argue against large expenditures just to make a pristine atmosphere, without demonstrable and correspondingly large benefits to society. When told that the chemical industry must spend an additional $1.9 billion just to control an additional 3 percent of hydrocarbon emissions—although that 3 percent is insignificant compared to the atmosphere's natural load—they rebel.[7]

Going all the way out to the other extreme, we find those who think business is doing nothing unless it is doing just about everything. Anything less than 100 percent control of hydrocarbons—difficult to attain or not—is a sign of corporate foot-

4. Peter Singer, *Animal Liberation* (New York: New York Review, 1975); Roderick Nash "Do Rocks Have Rights?" *Center Magazine*, vol. 10, no. 6 (November–December 1977), pp. 2–11.

5. Tucker, "Anti-Tamperism."

6. See "Law on Air Quality Debated on Coast," *The New York Times*, 21 February 1979, p. A17.

7. See Manufacturing Chemists Association final report, *Cost of Hydrocarbon Emissions Control to the U.S. Chemical Industry*, December 1977.

dragging, or worse. If 100 percent control means no new refineries, or curtailing existing operations, so be it; that is exactly what the doctor ordered for our psychological health, even if no danger to physical health can be shown. In the words of Aaron Wildavsky, for these individuals "the process of cleansing is the purpose. If purification is what you are after, more is better than less, and you would expect to pay more for each increment."[8]

In these situations large corporations are caught in the middle. There are competing demands: more jobs, more products; more environmental "purity." How can corporations respond? The answer, of course, is that they have to rely on government to set reasonable standards. This standard setting process, in turn, would be greatly facilitated by a national consensus on environmental goals stated in social and economic terms that all could understand—even if all did not support.

Trade-offs

The lack of consensus on environmental goals stems in part from our unwillingness or inability to recognize trade-offs. Ideally, in a society strained by competing demands, public policy ought to spring from widespread understanding of the trade-offs which are inevitable when we want more in many different areas. Yet, the trade-offs required to implement existing environmental programs are often not recognized. Even when they are acknowledged, they tend to be "kissed-off" as inconsequential compared with benefits. It seems that the concept of "more is better" has been largely accepted in some environmental circles: The more antipollution money industry spends, the better off we are. A graphic depiction of that belief would have a vertical axis labeled "human welfare" and a horizontal axis labeled "antipollution expenditures." It would show a line going up diagonally like a rifle shot, maybe tailing off at the end to reflect the law of diminishing returns.

Keeping that graph in mind, consider several quotations on environmental concerns and see how they fit that essentially straight line. First, AFL-CIO spokesman Al Zack: "You can have all the pristine air and water in the world and nobody will be eating."[9] Then, economist Thomas Sowell: "If you're talking about keeping the coastline pure enough for the standards of the Sierra Club, you're talking about keeping the people living in Watts down in Watts." Finally, NAACP Chairman Benjamin Hooks' comments on his organization: "We are not antienvironmental, but we are saying that there ought to be social-economic impact statements for environmental regulations."[10]

If we add to these the complaints—very easy to demonstrate from engineering data—that expenditures to move toward environmental "purity" rise not in linear fashion, but exponentially, we might wonder whether the extremists at either end of the scale—those who say "spend as little as possible," and those who say "Damn the bookkeeping; full speed ahead"—are responding to real human needs. What is being heard from groups concerned about economic advancement is that man

8. Aaron Wildavsky, "Economy and Environment/Rationality and Ritual," *Stanford Law Review*, vol. 29 (November 1976), p. 191.

9. "Tensions Increase Between Labor and Environmentalists Over Jobs," *The New York Times*, 28 May 1977, p. 22.

10. Marshall Loeb, "New Bridges Between Blacks and Business," *Time*, 22 January 1979, p. 62.

must change the world to live in it; that the truely natural environment is an environment of poverty, one that benefits only demagogues and undertakers. Groups such as the NAACP and the AFL-CIO are saying something that is fundamental and important. They are arguing—and persuasively—that environmental expenditures may bring gains up to a point, but beyond that certain point they actually result in a reduction in human welfare, because they take away money that is needed elsewhere.

If you put that thought on our graph, you don't get a straight line, or even one with a little bend at the end. You get something that looks like the celebrated Laffer curve for tax rates: that is, a curve leading upwards and outwards to a maximum value, and then back down as additional expenditures produce little benefit and far less than from some alternative use of the money. Professor Laffer finds that two different tax rates—one high, one low—can create the same amount of government income. So it is that two different environmental "purifying" expenditure rates—one low and one high—can lead to the same improvement in human welfare in terms of all the components important to welfare: food, jobs, clothing, energy supply, and others.

There are, of course, differences between environmental expenditures and tax rates. But the curve does indicate that it is not factual to say that an increase in environmental expenditures will automatically increase human welfare. Overexpenditure may, as the AFL-CIO suggests, deprive people of good food as readily as underexpenditure may deprive them of clean air. Hunger and pollution both reduce human welfare. Our goal in all cases should be to move to a point where money is not wasted and where human welfare is maximized.

To illustrate this concept, consider an example developed not by industry but by Dr. Eisenbud. He has cited the expenditure of $200 million a year to reduce the level of sulfur in fuel burned in New York City from 0.6 to 0.3 percent. The 0.3 percent standard was established in what he calls "an excess of zeal." The point he makes is that there is no evidence that the 0.3 number is any better for health than 0.6 percent. But there is evidence that when programs to control health problems such as rat infestation and bad housing are underfinanced, spending that extra $200 million on SO_2 reduction does not help the human environment and may actually hurt it, since money spent foolishly is just not available for wise spending.[11]

"We aren't keeping our eyes on what is truly important—the health and well-being of people—and on cost-benefit ratios—how much we can improve health with a given expenditure of money resources," Dr. Eisenbud has said. "What is amazing to me is how our American society, which venerates practicality and bottom-line reasoning, can have gone so far wrong.[12]

The records at one Du Pont plant show that an expenditure of $1.2 million allowed it to collect 94 percent of its particulate air emissions. An additional $1.8 million was required to meet a 97 percent removal standard called for by the EPA. Yet, that last expenditure led to no significant enhancement of air quality.[13]

11. "Environmentalist Questions Priorities," *The New York Times*, 12 May 1978, p. II-1.

12. Ibid.

13. Overall Du Pont pollution control investment as of 1978 was $550 million ($181

You may never hear a businessman pleading for higher taxes, but it would have been better if the government had simply taken the extra $1.8 million and put it to some good use. At least Du Pont would have been spared the annual maintenance costs. Better yet, they would have been permitted to have a favorable environmental impact by spending that money to create additional jobs.

This waste is not just a business problem. The plain fact is that all business costs are ultimately passed on to the consumer. As long as all companies face virtually the same expenses, individual businesses can survive competitively. But none of us can escape the consequences of waste. Just as some educators are adopting a "back to basics" policy, government and industry need to go back to basic economics and identify and quantify the inevitable trade-offs.

Limitations of the political process

The political process we use to reach decisions on environmental alternatives does not provide for thoughtful consideration of all relevant data. There are several reasons for this failure.

One stems from the political style our society has developed in recent years. It seems that the loudest voices are selling the narrowest views. Some people seem intent not on factoring *in* all relevant information but on factoring *out* all pieces of evidence except those supporting their goals.

Recently, Charles Schultze and Alfred Kahn, two outspoken Administration officials, wrote a strong memorandum to the Environmental Protection Agency. They said the EPA's interpretation of the 1977 amendments to the Clean Water Act was establishing the rules which could be "prohibitively expensive." They suggested that the whole program and its timetables should be reexamined to see if we would be getting our money's worth. Now that is at least a reasonable proposition: Look before you leap. A lot of people liked the suggestion from Schultze and Kahn. But to the believers in environmental "purity," any such discussion of values and trade-offs was most unwelcome. They bitterly charged that Schultze and Kahn were "interfering" with the decisionmaking process.[14]

Robert Rauch of the Environmental Defense Fund has argued that, henceforth, EPA Administrator Douglas Costle should "refuse to meet with any White House official whose views may have been influenced by *ex parte* communications from representatives of industry or other members of the public."[15] But would that help us to find better solutions? Why, when people are curious enough to ask about the various ways a billion dollars could be used to improve human welfare, should they immediately be accused of environmental callousness? Why are environmental impact statements good but economic impact statements evil?

Frequently, the design of a law itself is the problem. When Congress establishes specific environmental objectives and timetables without adequate consideration of costs and

million air, $332 million water, $37 million solid waste). Operating and maintenance costs in this area for 1978 totaled $236 million. Expected new Du Pont investment in pollution control in 1979 and 1980 is $65 million and $76 million, respectively.

14. "Some in E.P.A. Assail White House Moves," *The New York Times*, 22 February 1979, p. A17.

15. "Slants and Trends," *Air/Water Pollution Report*, 26 February 1979, p. 82.

alternatives, the country suffers. Sometimes with a great deal of educational effort and the exercise of political clout we succeed in getting sensible mid-course corrections. More often we don't and the public pays without receiving environmental or social benefits of corresponding value.

"Forcing legislation" such as that which affected the automotive industry may have broad appeal at the outset. It may even achieve some desirable goals. Coupled with a promise of evaluation of a mid-course correction, it also has theoretical appeal. However, in practice, the forced future standard becomes the base and establishes expectations that may not be realized. More importantly, the resulting political environment makes pursuit of more logical alternatives in a mid-course correction difficult or impossible.

REGULATORY AGENCY PROBLEMS

There are overlapping responsibilities among agencies dealing with health and environmental problems. These lead to fragmented consideration of issues with broad impact and failure to look at the totality of regulation. The President has recognized the problem and has taken steps to improve coordination among the agencies. Tough problems still exist, however, and it remains to be seen whether the desired degree of coordination will be achieved.

There is a serious shortage of scientific and economic understanding among regulatory agency personnel dealing largely with scientific and economic questions which makes informed decisionmaking difficult.

Problems concerning risk and reward are troublesome. The American people have shown little reluctance to assume risk for personal rewards or satisfaction. What doesn't sit well at all is to be subjected to risk, however slight, for someone else's benefit. As understandable as this is, it poses huge problems to the regulatory agencies and to society broadly. How does society deal with second and third party risk?

The fishbowl atmosphere of the regulatory agencies makes it hard to reach balanced decisions on difficult issues. Agencies are battered from right and left by special interest groups demanding satisfaction and threatening lawsuits. Seldom do the combatants seek areas of agreement with one another and then try to assist the agency in resolving the remaining conflicts. These strongly adversarial proceedings are in marked contrast to those employed in some other leading nations.

Finally, in the regulatory process, we have a reward system that tends to be counterproductive. Very few bureaucrats get fired for failing to act, whereas if they make mistakes in judgment and authorize a company to proceed with a new product or a work practice later found to be unsafe, they are dealt with harshly. While companies clearly should not be allowed to proceed with unsafe products or work practices, keeping useful products off the market is not desirable either.

In general, the *rate* at which we move toward specific environmental goals is of prime importance in determining both cost and benefits. Here, especially, understanding where we are and what the trade-offs are in moving forward at different rates is essential to regulating in the public interest. Complete and accurate data are essential. In almost all cases, assuming no imminent threat to public health and safety, the preferred course should be to take the cost-effective improvement that

we can afford now, but defer the rest until technology or improved economics permit another cost-effective bite.

It should be noted that rapid improvements in technology are now facilitating actions that were not feasible a few years ago. Spending all our money on yesterday's pollution control technology may make less sense than putting some of those dollars into research to find tomorrow's better way.

There is an important role which social and political scientists should have in the overall decisionmaking process. It is not safe to assume in our climate of adversarial politics and single-issue thinking that by good luck we will end up with nicely balanced and logical government policies. It follows that those who can look at problems in the round and do objective analysis should get deeply involved in the process.

It is to be hoped: that business can work more closely with those members of the academic community who are in favor of examining all the basic values and encouraging holistic thinking; that social scientists, in consultation with their associates in the physical sciences, can move us toward consensus on environmental objectives, help to develop systems to assess trade-offs that include all relevant considerations, and communicate their findings to the public—which will then be able to choose more wisely. There are encouraging signs in the overall process. Some environmentalists, businessmen, lawmakers, and regulators are diligently searching for common ground and thoughtful resolution of remaining differences.

* * *

QUESTIONS AND ANSWERS

Q: If, as you suggest, it is important to assess the economic as well as the environmental impact of policies, what about social and psychological impact as well? How does society deal with the risks of Three Mile Island or the Love Canal?

A: If we knew everything 30 years ago or 20 years ago that we know today, we could have acted differently. There are certainly instances in which industry was occasionally cavalier, arrogant, and even stupid. But with the new knowledge that we have, with the laws that have been enacted, and with the sense of responsibility that most industries that I know have, there will be a great deal more attention to public protection.

Q: There seems to be an adversary relationship between business and government; why couldn't there be a merger—in the sense of a cooperative agency—to devise environmental research and analysis for the optimum benefit of all the people?

A: I think this is beginning to happen. The dialog should be developed among industry, labor, and government around special concerns like the environment, and there will be a recognition that in a democracy trade-offs are inevitable, and that compromise is really the name of the game.

A: Why doesn't industry recognize some of the responsibility for the environmental mistakes that have been made—dumping of toxic wastes, for example—clean up the mess and say, "Okay, we made a mistake and we've rectified it?"

A: It is often very difficult to know who is responsible for many of these errors, or even to know what to do about them. Also I think that industry's record for responsibility includes a spectrum of behavior. My own company has had a policy for 30 years that it would not make or sell a product that could not be made, transported, used, and disposed of safely, and even with that enlightened policy we have had some problems. I think many companies will clean up their dumps when they can get at them and identify them. As to the matter of cost, one way or another, in taxes or in prices, you and I—the public—will pay.

Q: What cost benefit ratio would you recommend for the cleanup at Three Mile Island?

A: I recommend that the site be left completely safe for the environment: and it will be. The levels of radioactivity in the surrounding area are well below those of any health concern. If you fly in an airplane your added radiation dosage in a single trip will be about the same as that experience. If you ski in Colorado you increase your annual dose of radiation by a factor of 2. How society deals with reimbursing those who were inconvenienced is a social problem on which everyone has a right to speak.

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The Third World: Changing Attitudes Toward Environmental Protection

By WHITMAN BASSOW

ABSTRACT: A revolution in Third World attitudes toward environmental protection has occurred since the 1972 United Nations Conference on the Human Environment held in Stockholm. Before then, most Third World leaders were convinced that their countries had no environmental problems—problems which they associated with industrialization and "pollution." But the Conference accelerated a change in attitude already under way as the result of a pioneering report on environment and economic development prepared especially for the meeting. Subsequently, the growing involvement of the U.N. Environment Program with their concerns has helped change perceptions of environmental problems in developing countries. Political leaders now see that industrial and agricultural development, the unplanned growth of cities, and burgeoning populations can have an adverse effect on the environment and the quality of life. Many developing countries are now implementing national environmental policies. Protection of the planet's environment is no longer the exclusive concern of the industrialized countries alone.

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WEBSTER'S dictionary defines revolution as a "sudden, radical or complete change." It gives as an example a revolution in thought. There is a current revolution in thought that many people are not aware of and which may not precisely fit the dictionary definition. It is, however, a revolution, fairly sudden in terms of time, fairly radical in terms of concept, but not yet complete. And it has vast implications for the entire world.

This revolution can be simply stated: the countries of the Third World have changed their attitudes toward environmental protection. They are now increasingly aware of the harsh economic and human consequences that can result from failing to take into account the environmental impact of industrial development. They are equally concerned about the environmental problems created by the lack of economic development. As a result, many of these countries have not only formulated national environmental policies, but also created institutions to implement these policies. Furthermore, they are incorporating elements of environmental planning in their development process and allocating scarce funds and manpower to carry out environmental projects.

Wherever one looks today, in Asia, Africa, Latin America, and the Mideast, there is ample evidence that environmental protection is no longer the exclusive concern of the world's industrialized countries. What makes this change even more striking is that it has occurred in less than ten years, beginning in the early seventies with the United Nations Conference on the Human Environment in Stockholm and with the preparations for that historic meeting.

REASONS FOR THE CHANGE

This paper describes the three principal reasons for this change in attitude and presents an environmental overview of the developing world. In 1971 the Conference secretariat in Stockholm faced a difficult and complicated political task: to persuade the developing countries of the world to participate in the Conference. At that time, most of them had their own perceptions of the environmental issue. They associated environmental problems with industrial pollution, which was regarded primarily as a problem of the industrialized countries. It was the United States, Japan, Great Britain, and West Germany which had the giant smokestacks spewing fumes skyward. These countries had the millions of automobiles polluting cities with lead and carbon monoxide; their rivers and lakes were saturated with mercury, phosphates, and cadmium. These were the countries—the big energy users—that were dumping oil at sea and contaminating the oceans.

What, asked the developing countries, did this have to do with them? These countries were still largely agricultural; they still faced a long road to industrialization and were desperately seeking to increase living standards for burgeoning populations. Leaders in these countries said they would welcome pollution caused by smoking chimneys. They saw a profound and irreconcilable conflict between environmental protection and economic development.

"If pollution means jobs for my people, we welcome it," was how one Third World UN delegate summed up the attitudes of many others. However, the Third World was well represented at the UN Conference when it opened in a gala ceremony

in Stockholm's Opera House on 5 June 1972. There were delegates from 81 developing countries among the 113 nations represented.[1] This was a dramatic turnaround from the prospects that so worried the Conference secretariat.

The turnaround was largely due to the tireless efforts of the Conference Secretary General Maurice F. Strong and to a meeting in Switzerland, in June 1971, at which 27 economists and scientists met for nine days and produced the first conceptual basis for the idea that environment and development are not incompatible.[2] The Founex Report, which they produced, emphasized that developing countries do indeed have environmental problems, but they differ from those of industrialized countries, and that they, in fact, result from the lack of industrial development and from the process of industrialization itself.

Strong, a Canadian businessman and diplomat, called the Founex Report a "major contribution to the preparations for the Conference and a historic turning point in the development-environment dialogue."[3] The Report was included in the Stockholm agenda and adopted by the Conference. Looking back at the Report and its concepts, it is astonishing to see how it has penetrated environmental and economic decisionmaking in the Third World.

The Stockholm Conference itself was another factor which helped change Third World attitudes towards environmental protection. Although the Conference adopted the principles of the Founex Report, perhaps just as important, the preparatory process forced the Third World countries to examine their environmental problems. This was done by the simple device of inviting each participating country to submit a national environment report. Thus, for the first time, many developing countries took inventory of their problems and sharpened their perceptions about such issues as water as a resource, agriculture and soil conservation, wildlife, forestry, marine pollution, and pesticide use.[4] Furthermore, the need to produce such reports obliged many Third World governments to identify individuals who could gather the material and write such reports, thus creating a cadre for future environmental efforts.

A third factor in changing developing country attitudes was the establishment of the United Nations Environment Program (UNEP) by the General Assembly in December 1972. UNEP, "the environmental conscience of the United Nations," has since then oriented many of its programs directly to the concerns of developing countries. It has played a major role in three world conferences—human settlements, desertification, and water—which were heavily attended by Third World countries.

UNEP has a large number of ongoing projects designed to assist developing countries deal with problems relating to health, use of pesticides, wildlife conservation, irriga-

1. United Nations Conference on the Human Environment, List of Participants, A/CONF.48/INF.5/Rev. 1, 21 September 1972, New York: United Nations.

2. *Development and Environment, A Report submitted by a panel of experts convened by the Secretary General of the United Nations Conference on the Human Environment*, Founex, Switzerland, 4–12 June 1971 (Stockholm: Kungl. Boktyckeriet, P.A. Norstedt & Soner, 1971).

3. Ibid., p. 5

4. Summaries of National Reports on Environmental Problems (Washington, DC: Woodrow Wilson Center for Scholars, 1972).

tion, conservation of arid lands and fragile ecosystems, water quality, deforestation, and erosion.[5] It has also been helpful in providing environmental management training for developing countries and assistance in drafting environmental legislation; it educates Third World officials on standards for industry through its Industry Program, and directs a steady stream of information about environmental problems at decisionmakers in developing country governments.

UNEP also educates and sensitizes policymakers through their attendance at numerous conferences, workshops, colloquia, and through participation in the annual meetings of the Governing Council at UNEP headquarters in Nairobi. There they meet counterparts from other countries to discuss mutual concerns and interests as well as UNEP business.

Thus, by its very existence, UNEP helps direct the attention of the Third World to its environmental problems. And the fact that UNEP headquarters are located in Nairobi undoubtedly gives its programs a louder resonance in the Third World than if it were located in Geneva or New York, as had once been expected.

CURRENT ENVIRONMENTAL DEVELOPMENTS

An examination of what is happening now in those Third World countries that ten years ago refused to recognize their environmental problems and were reluctant to go to Stockholm reveals that their thinking about environmental protection has changed dramatically and, as a result, two trends are becoming increasingly apparent. First, almost everywhere there is a new awareness of the magnitude of environmental problen Second, in many countries, gove1 ments have established national e vironmental policies and offic agencies to deal with these problen

In Asia it is clear that the Foun analysis was only too true. Ever brief survey shows that in alm every country on that continent, t environment suffers from the resu of underdevelopment and, at t same time, from the adverse effe of rapid industrialization.

In India, for example, millions people must use firewood for co ing, even in the large cities such New Delhi and Bombay. This resu in high levels of atmospheric pol tion with serious impact on pub health. The pollution in New De is the worst in India, not only fr the burning of coal, but also fr factory and power plant emissio and from vehicles.[6] Runoff from p ticides and other agricultural cher cals is polluting the Bay of Beng while DDT and other contamina are found in fish used for hum consumption.[7] Pollution in Indi major rivers from human and ind trial waste has reduced the fish cat to an alarming level.[8]

Responding to the need for a r tional approach to these problen the Indian Government has esta lished a National Commission the Environment which has issu guidelines for major projects th will, it is hoped, ensure protecti of the environment. These cover t construction of dams, railways, op pit mines, and highways, and m be cleared by a commission of scie tists and technicians.[9]

5. UNEP *Annual Review*, 1975 (New York: United Nations, 1976).

6. *World Environment Report*, vol. 3, January 1977 (New York: Center for In national Environment Information), p. 5.
7. Ibid., vol. 4, 27 February 1978, p. 1
8. Ibid., vol 3, 9 May 1977, p. 1
9. Ibid., vol 4, 23 October 1978, p. 1

In Malaysia, the government has established a new Division of the Environment to tackle some of the country's problems, including air pollution in Kuala Lumpur which is said to be as bad as New York's.[10] Other pollution sources are petroleum refineries, palm oil effluents, and power stations. Malaysia is cooperating with Singapore and Indonesia in controlling traffic in the Malacca Strait, the heavily traveled route for oil tankers plying between the Mideast and Japan.[11]

In the Philippines, one of the major problems is erosion of forested areas. The country has 12.35 million acres of denuded upland areas stripped of original vegetation. Reforestation is very slow and only about 45,000 acres are reforested annually.[12] Much of this damage is due to the slash and burn agricultural practice common in developing countries. But there are other danger signals of a totally different kind: high lead levels have been found in selected populations in the Manila area, including automobile workers and police.[13] The coliform bacteria count in offshore Manila Bay—which receives 350 tons of untreated household waste daily—is an unsurprising two million per 100 milliliters.[14] Pollution from the mining industry is adversely affecting eight major river systems which receive 100,000 tons of mine tailings daily. Over 130,000 hectares of agricultural land are watered by these rivers.[15]

To deal with some of these problems, the Philippine government established an Environment Protection Council in 1977 with a mandate to curb sources of pollution. In addition, the government now requires an environmental impact statement before public and privately financed projects are approved. This applies to dams, roads, and power stations.

Turkey is afflicted with urban air pollution that could lead to "mass deaths," according to medical authorities. In Ankara, sulphur dioxide levels are 37.5 times higher than the permissible level suggested by WHO. The result has been an increase in cases of bronchitis, lung disease, miscarriages, and premature births.[16] The emissions are due largely to the use of high sulphur coals.[17]

At the same time, growing industrialization and exploding population are creating severe pollution problems in Istanbul. The population is spreading rapidly into industrial areas that were once outside the city. Residential and industrial buildings are now intermingled, with the result that uncontrolled factory emissions are polluting residential neighborhoods.[18] Turkey, however, has decided to act on some of these problems. Last year, parliament created a new agency to deal with environment headed by an Undersecretary of State who reports directly to the Prime Minister.[19]

An indication of how far one developing country has moved in the direction of environmental awareness is a provision in the new constitution of Sri Lanka which obliges the government "to protect, preserve and improve the environment for the benefit of the community."[20]

While other developing countries have not gone as far as Sri Lanka, the trend towards establishing gov-

10. Ibid., vol. 4, 4 December 1978, p. 8
11. Ibid., vol. 3, 31 January 1977, p. 6
12. Ibid., vol. 3, 11 April 1977, p. 8
13. Ibid., vol. 3, 10 October 1977, p. 7
14. Ibid., vol. 3, 10 October 1977, p. 7
15. Ibid., vol 3, 20 June 1977, p. 8
16. Ibid., vol. 3, 28 February 1977, p. 6
17. Ibid., vol. 4, 11 September 1978, p. 7
18. Ibid., vol. 4, 10 April 1978, p. 5
19. Ibid., vol. 4, 11 September 1978, p. 5
20. Ibid., vol. 4, 4 December 1978, p. 5

ernmental agencies to deal with environmental problems is becoming widespread in Asia. Singapore, Indonesia, Thailand, Iran, and Bangladesh have such agencies. They vary in power, resources and commitment, but ten years ago not a single one existed.

ENVIRONMENTAL PROTECTION IN LATIN AMERICA

In Latin America the trends are similar to those in Asia. There is growing national concern with the same issues: deforestation, erosion of arable land, congestion in cities with resulting strain on sanitation, transportation, and water systems, and increasing pollution as a result of swift industrialization. The response to these problems varies from country to country, from official indifference in Argentina to high level commitment in Venezuela, but compared to ten years ago the change is impressive.

Venezuela has established a full-fledged Ministry of Environment and Renewable Natural Resources with broad regulatory powers.[21] Colombia has passed a comprehensive environmental protection code which although flexibly enforced is, nonetheless, the law of the land.[22] Mexico created an Undersecretariat for Environmental Improvement in 1972 within the Ministry of Health with a staff of 500.[23]

Even Brazil, which was one of the strongest protagonists of industrial development unhindered by environmental considerations, is beginning to modify its views in face of the enormous problems resulting from unplanned development. In Sao Paulo, for example, whose slogan once was: "Sao Paulo Cannot Stop," the government has banned further construction of industrial plants. The city has unacceptable levels of atmospheric and water pollution, as well as the unenviable citation as one of the five noisiest cities in the world.[24]

Of all the Latin American countries, oil-rich Venezuela is by far the leader in environmental protection. In fact, in terms of organization, resources, political support, and legislative mandate, it is the leader in the Third World, an example of what a developing country can do to carry out industrialization and still protect its environment.

In an address to the International Environment Forum on his country's environmental problems and policies,[25] Arnoldo José Gabaldon, then Minister of the Environment and Renewable Natural Resources, echoed the Founex Report. He labeled as "erroneous" the belief that environmental degradation exists only in high technology countries. As the industrialization process begins, he said, it creates its own environmental problems. Underdevelopment also produces adverse environmental impact due to deforestation, inappropriate agricultural methods, destruction of woodland, and aberrant occupation of land.[26] "Common sense," he warned, "tells us to profit from

21. Arnoldo José Gabaldon, Minister of the Environment and Renewable Natural Resources, Venezuela (Address to International Environment Forum, New York City, 1 December 1977, unpublished).

22. *World Environment Report*, vol. I, 3 February 1975, p. 2

23. Humberto Romero Alvarez, Undersecretary for Environmental Improvement, Mexico (Address to International Environment Forum, New York City, 15 December 1978, unpublished).

24. *World Environment Report*, vol. 4 24 April 1978, p. 3

25. Arnoldo José Gabaldon, see n. 21.

26. Ibid.

the experience of developed countries and anticipate the environment degrading situations affecting these industrialized nations."[27]

In order to deal with its environmental problems, Venezuela promulgated a Law of the Environment in July 1976 which provided the basic framework for environmental protection. In December 1976, the Ministry of Environment and Renewable Natural Resources came into existence. One of the Ministry's mandates was to establish priorities and a plan for dealing with Venezuela's most serious problems. This covers: resource management (forests, wildlife, water); resource conservation (river basin conservation, forest fires); pollution control (air in cities, water pollution, waste disposal); development projects (flood prevention, national parks, recreation areas); and institutional aids which support national environmental policy with a heavy emphasis on education and citizen participation.[28]

The Ministry organized environmental boards composed of citizen groups in each municipality. They are responsible for "ecological crime" prevention, educational campaigns, and sponsorship of local cleanup efforts. Under a unique arrangement with the National Guard, specially trained officers enforce environmental laws and regulations.[29]

Venezuela has carried out a number of conservation measures in the last few years designed to prevent depletion of tropical forests. These include suspension of logging permits in national timber reserves and a large scale afforestation program through the National Reforestation Company (CONARE). CONARE has planted 65 million trees during its first three years of operation. Although Venezuela is an oil-rich country, it plans to develop its water power potential to provide 77 percent of its electricity needs by the year 2000. In 1977, that figure was 40 percent.[30]

Venezuela's policies towards industrial pollution are flexible, based on the concept of permissible pollution. This means that temporary pollution is permissible provided the adverse consequences do not make irreversible changes in the environment.[31]

Venezuela is attacking its environmental problems in an imaginative and determined way. Unlike the vast majority of developing countries, it can carry out a serious environmental protection program because it has the financial resources, leadership, and political will to do so. With a population of 13 million, its per capita income in 1975 was $1346, the highest in Latin America. The Ministry of Environment and Renewable Resources had a 1978 budget of $200 million, a figure that could well be greater than expenditures for all African and Latin American countries combined.

A significant aspect of the program is that Venezuela is big enough and rich enough to play a leadership role in environmental protection in Latin America. Other countries which do not have the same resources are turning to Venezuela for technical assistance and advice in dealing with their environmental problems. What also makes Venezuela's approach noteworthy is that a government structure was tailored to the country's indigenous problems. After studying government agencies and

27. Ibid.
28. Ibid.
29. Ibid.

30. Ibid.
31. Ibid.

policies in the United States, Great Britain, and other industrialized countries, Venezuela developed its own approach suited to its particular needs. A senior U.S. State Department official has confided that the Venezuelans have designed a more rational and efficient system for dealing with environmental issues than the United States.

ENVIRONMENTAL PROTECTION IN AFRICA

The trends in Latin America and Asia apply to Africa where, of course, the problems are different. Here the resources allocated to environmental protection vary from country to country, and the political will to take action ranges from indifferent to determined. But again, in almost every country there is now in place some kind of government agency, ministry, department, or office charged with environmental protection, be it wildlife, forests, water, natural resources, health, or sanitation.

The leader in Africa is Nigeria, the most populous and the richest of all black African countries. Unlike its oil-rich counterpart in Latin America, Nigeria is just beginning to organize itself in the environment field, but it is dealing with the same problems grounded in underdevelopment and swift economic growth, as predicted in the Founex Report.

Nigeria's main environmental problems include inadequate supplies of clean water, poor sanitation, lack of waste disposal facilities, deforestation and erosion, inadequate housing, degradation of agricultural land, and encroaching deserts in the north.[32] In addition, Nigeria is experiencing environmental problems associated with technologically advanced societies: oil spills and discharges, contamination of rivers by untreated industrial effluents from paper, steel, and textile mills, workplace health problems, beaches polluted by human wastes, and large land areas degraded by mining activities.[33]

The most dramatic impact has been on Nigeria's overloaded cities, of which Lagos is the best example. The capital city, with a population that has more than tripled in the last ten years, has no sewerage system and no dependable clean water supply. It suffers monstrous traffic jams and high levels of air pollution due to vehicle emissions.

In 1977, Nigeria established a Division of Environmental Planning and Protection within the powerful Ministry of Industries. Dr. Raimi O. Ojikutu, a physical anthropologist with international environmental experience, was appointed as Division Director. The Division was created, according to Ojikutu, because it was believed that as Nigeria proceeds along the road to industrialization, it must "learn from the mistakes of industrialized countries and not allow the activities of individual production units within the economic system to impose unduly heavy indirect costs on society through their contribution to environmental deterioration."[34]

The Nigerian government has identified twelve priority areas for environmental action. These include industrial pollution control, the use of pesticides and chemical fertilizers in agriculture, oil-related water pollution, solid waste management, desertification control meas-

32. Dr. Raimi O. Ojikutu, Director, Environmental Planning and Protection, Nigeria (Address to International Environment Forum, New York City, 12 June 1978, unpublished).

33. Ibid.

34. Ibid.

ures, land conservation, and public education. Furthermore, the Division is preparing a Report on the State of the Environment in Nigeria to focus the attention of policymakers, professionals, and the public on major environmental problems with recommendations for solutions.[35]

The government is turning to other countries and international organizations for assistance in dealing with environmental problems. Recently a mission from the U.S. Environmental Protection Agency spent several weeks in Nigeria, visiting different regions to prepare a prefeasibility survey of environmental action priorities.

The high-level importance given to environmental issues is indicated by the formation of an Inter-Ministerial Advisory Committee on Environmental Protection. The Committee meets monthly to consider major environmental problems and make recommendations for action.[36] It is expected that within the very near future, Nigeria will establish an independent environmental protection agency, similar to the U.S. EPA—the first one in Africa.

CHANGE IN THIRD WORLD ATTITUDES

This brief description of environmental developments in the Third World since the Stockholm Conference shows, without any doubt, that there has been a remarkable change in attitudes towards the environment. No longer is environmental protection regarded as identical with "pollution control," nor as an unpleasant byproduct of a highly desirable technological society. Developing countries—for the most part—see environmental protection as protection of the national interest, vital to creating a decent life for their people.

Of course, the understanding of the issues and the commitment varies from country to country; it varies with the level of political will of government leaders, with the expressed concern of the news media and the scientific community, with the sophistication of public opinion. But there can be no doubt that in almost every country in the Third World there is a growing environmental awareness that did not exist ten years ago. One piece of evidence: in 1972, at the time of the Stockholm Conference, only eleven developing countries had agencies that dealt in some fashion with environmental issues. Today, that number is 87.[37]

The rallying cry for the Stockholm Conference on the Human Environment was simple and eloquent: Only One Earth. But at that time it was feared that developing countries, representing two-thirds of the world's population, were not concerned about protecting the planet from environmental degradation. It can now be said, and said with confidence, that concern and indeed commitment are worldwide. Developing and industrialized nations are at last beginning to work together to ensure that our Only One Earth remains a viable, fruitful and hospitable environment for this and future generations of mankind.

35. Ibid.
36. Ibid.

37. Compiled from the list of participants at the UN Conference on the Human Environment and files of the Center for International Environment Information, New York City.

ANNALS, AAPSS, 444, July 1979

The Spread of an Idea: Environmentalism on the International Scene

By DOUGLAS M. COSTLE

ABSTRACT: Within a decade, concern for the environment has become a significant social and political force around the globe. Chlorofluorocarbons and acid rains are not restricted by frontiers. The environmental problems we share with the rest of the world—finite supplies of land, clean water and air, and the cost of their destruction—mandate a recognition of our mutual vulnerability and a redefinition of concepts to focus more specifically on quality of life. The cost can only increase if we delay.

Douglas M. Costle is the Administrator of the U.S. Environmental Protection Agency. He was a member of President Carter's Transition Team on Government Organization, served as Assistant Director for Natural Resources and Commerce, Congressional Budget Office, and as Commissioner of the Connecticut Department of Environmental Protection.

THERE is no question about the future of American ideas on environmental protection: a whole new way of thinking that sprouted from outrage only ten years ago has weathered its intellectual winter and sunk deep roots into our national soil. What was once regarded as a passing fad, a trend of no more moment than mini-skirts or Nehru jackets, has become a major social and political force in our lives. Furthermore, it is remarkable how quickly a concern for the integrity of our natural biological systems has spread around the globe.

Every month the CIA puts out a handbook on the composition of foreign governments, listing their senior officials and titles. In a recent issue, at least 30 governments had environmental ministers, and a dozen others had officials whose primary responsibility was the stewardship of natural resources. France has spawned four political parties whose single platform is environmental protection; and while it may be dangerous to elect officials who agree with us on one, passionate matter, those parties in France are a reflection of substantial public sentiment. Another, in this telecommunications age, is the speed with which environmental threats in one nation become rallying cries in another; within 48 hours after those fuel-assemblies began heating up at Three Mile Island, antinuclear demonstrators in Germany were marching under banners that read, "We *all* live in Pennsylvania!"

Political dissenters, like taxes, will always be with us but the day is past when politicians can dismiss environmental concern as a fringe issue. Public opinion polls here have been unanimous for the last several years in finding that Americans support greater expenditures for pollution control *even if* such expenditures raise prices. And concern for the impact of environmental damage clearly extends to governments that do not make a fetish of bowing to public opinion: in his remarkable book, *Losing Ground*, Erik Eckholm suggests that a mistaken agricultural policy that led to vast soil erosion in Russia's Virgin Lands brought about the downfall of Nikita Khrushchev. Since the Politburo does not publish its deliberations in anything resembling the *Congressional Record*, Eckholm could only guess. Yet his guess was strongly backed up in a two-part profile, published by the *New Yorker* magazine, of Cyrus Eaton, the Cleveland industrialist who was a friend of Khrushchev's.

This new influence of environmental thinking on public affairs has spread also to the developing countries. They share some problems with the industrialized nations; others seem peculiarly theirs, even though our assistance may be required to solve them.

ENVIRONMENTAL CONCERNS

The following sample of environmental concerns is offered—more in the spirit of a report card than of a close analysis—on topics ranging from complex to simple.

CFCs

Among the complex ones—both because of the chemistry and the distances involved—is the disputed effect of chlorofluorocarbons on the atmosphere. Studies dating back five years conclude that CFC's released from aerosol containers and other sources are diffusing into the upper stratosphere; after breaking down under the influence of sunlight, liberated chlorine can react with the ozone, reducing its ability to shield us from ultraviolet radiation.

An increase in such radiation, in turn, could increase the incidence of skin cancer and affect animals, crops, and other plants.

Aerosol propellants used in such items as hairsprays and deodorants accounted for about 62 percent of all CFC emissions in the U.S. in 1973, the year of peak production. Since they were the major source, and were also easy to control, it was decided to concentrate on them first. As of December, all use of chlorofluorocarbons in aerosols was prohibited in the U.S., as was the import of products containing CFC's. As of April 15—a week from tomorrow—all nonessential aerosol products containing CFC's will be banned from interstate commerce. However, products already on the market or in distribution channels can be sold until stocks are depleted.

As a result of these regulations, coupled with voluntary industry action, we estimate that CFC production this year will total 550 million pounds, down from 900 million in 1973. This should decrease total world use of CFC's by 25 percent, providing other nations don't increase *their* uses. But several other countries have indicated their concern for the problem: Sweden announced regulations on nonessential CFC's about the same time we did; Canada and Norway are considering controls; and the Netherlands has proposed warning labels. Further action should flow from a second international conference on CFC's held in Munich last December.

Acid rain

Another atmospheric problem—but one whose results have been demonstrated—is that of acid rains. The combustion of fossil fuels puts sulfur and nitrogen compounds into the air; after being carried considerable distances by currents, these compounds fall to earth again as rain and snow. The result, an increase in acidity, has been shown to have a number of adverse effects: it can decrease agricultural and forest yields; reduce the production of freshwater fish; deplete nutrients from soils and aquatic ecosystems; inactivate microorganisms essential to soil productivity, and corrode materials.

Acid rains were first monitored in Scandinavia—where both forests and fish are of major economic importance—and then noted here. Increased acid levels in rain are believed to account for the near-total elimination of fish from 200 lakes in the Adirondack Mountains. Controlling acid rains—*if* that can be done—poses some delicate political problems because they originate so far away from the places where they fall. Pollution in the Philadelphia-Wilmington area, for example—where rains 100 times as acid as normal precipitation have been measured—comes not only from local sources, but probably from the midwest and from southeastern Canada.

Here again, the major industrial nations are cooperating on studies to determine the seriousness of the problem and propose action. Seventy monitoring stations in 10 European countries have been established, and scientists in Canada, the United States and the Soviet Union are contributing their own analyses.

U.S.-U.S.S.R. environmental cooperation

The extent of environmental cooperation between the United States and Russia is remarkable, considering our common habit of emitting

hostile noises at each other from time to time. For six years now, we have been working with the Soviets on projects ranging from earthquake prediction to the tracking and protection of migratory birds. In some areas, the Soviets are less advanced than we; in others, we have benefited from their expertise and resources in specialized matters—their ozone treatment of municipal wastewater, for example. Under our current Environmental Agreement with Russia, U.S. agencies as disparate as EPA, the Coast Guard, and the Department of Housing and Urban Development are carrying out 41 projects. Serving as chairman of the U.S. delegation to the sixth joint meeting of the U.S.-U.S.S.R. committee, and noting our shared work in the past, suggested to me that in the matter of making strange bedfellows, ecology may outdistance politics.

HEALTH PROBLEMS AND THE ENVIRONMENT

Depletion of the ozone shield and the long-distance transport of air pollutants can affect the underdeveloped nations of the earth as much as the industrialized states, but those countries have much more immediate problems. One of them is a recent and rather sudden resurgence of malaria. With the development of DDT and widespread spraying programs in the Far East, it once seemed possible to eradicate this disease entirely.

In Pakistan, in 1961, for example, there were 7 million cases of malaria. By 1968, that number had been reduced to *fewer than 10,000 cases*, and it seemed possible to reduce that incidence to zero by 1975. In that year, however, the disease made a sudden comeback: 10 million cases were reported—more than before the use of DDT. Similarly, the number of reported cases in India soared from a low of 40,000 in 1966 to 6 million in 1976. Similar resurgences have been reported in Thailand, Sri Lanka, Vietnam, Indonesia, and African countries south of the Sahara.

One of the principal reasons for this resurgence is the development of resistance to DDT among mosquitoes, and to Chloroquin among malaria parasites in humans. Because insects reproduce so rapidly, they offer us an illustration of Darwinian selection at high speed, and random mutations have now produced new generations unaffected by control pesticides.

As a result of this resistance, the United Nations Environmental Program and the World Health Organization are looking for strategies emphasizing what is known as "integrated pest management." This minimizes the use of pesticides—which have often produced side-effects harmful to soils, crops, and humans—and uses a variety of other defenses ranging from habitat modification to reliance on other natural predators. Experiments in more than 30 countries have focused on selecting fish species that feed on mosquito larvae and the propagation of microbes and other parasites that attack mosquitoes.

ENERGY AND THE ENVIRONMENT

Our energy problem is serious, but in the midst of our deliberations over nuclear energy, coal combustion, and oil depletion, it is difficult to take seriously an energy shortage of a totally different kind in the Third World: the shortage of firewood. Urban laborers in Upper Volta—one of the world's poorest nations—spend 20 percent of their income on firewood; in Mali

and Niger, the share is 25 percent, as compared, for example, to roughly 10 percent in the United States for the average family's total energy needs.

In rural areas, energy costs are measured in time, not money. Families in rural parts of India typically spend from 50 to 200 days a year cutting firewood—and this time increases as the most accessible stands are cut down.

Depletion of trees for firewood causes all sorts of environmental havoc. Trees help to hold fertile topsoil in place; when they are cut on the sides of mountains, rains and monsoons strip the soil, leaving farmers to work progressively more barren ground. As forests close to villages are destroyed, and families must travel longer distances to obtain wood, they begin using cow manure as a substitute fuel, thus robbing their land of a badly needed source of fertilizer. When the land is finally depleted, farmers have no choice but to move to less suitable sites—mountain slopes, for example—cut down more trees, and begin the land-destructive cycle all over again.

Perhaps the most tragic aspect of this energy shortage in the Third World is that the use of firewood in open fires is so inefficient. The stove usually used in Indonesia captures only about 6 percent of the energy value in the wood.

Efforts to ameliorate this problem include extensive tree-planting programs in China and the Philippines. Improvements in stove design can cut heat losses by 20 percent, drying the wood can reduce them another 10 percent, and new devices for cooking can eliminate another 30 percent. The prospect for deriving greater energy from firewood through more efficient stove design deserves greater attention even in this country; President Carter has proposed a tax credit for the purchase of high-efficiency wood stoves. The question for the developing countries—in view of the rapid rate of deforestation—is whether revegetation and new stoves can be supplied quickly enough to halt soil destruction before widespread disaster strikes.

ENVIRONMENTAL PROBLEMS IN COMMON

Some common threads run through environmental problems in both the industrialized and developing countries. First is the recognition that air, land, and water are finite goods—limited in amount. They always *have* been, of course; there is no more water on the globe today than there was when the first humans emerged three and a half million years ago. As long as the *number* of human beings remained relatively small, however, the finite quantity of natural resources posed no serious problems for our survival.

That balance has been severely disturbed by rapid population growth, itself a product of agricultural advance and improvements in public health measures. This recognition that we can eat ourselves out of house and home constitutes the second thread running through environmental concerns today. The industrialized world, in general, has its rate of population increase well under control. Progress is being made in developing countries, but in some of them the old reliance on large families—both for labor supply and as a form of social security for parents in their old age—impedes efforts to slow the increase in human numbers.

A third common thread is the recognition that valuable technolo-

ranging from the construction ırge public works to the pro- ion of chemicals, can have seri- damaging side-effects. In the ed States we have our Love l; Third World countries have heir share of large and small ical disasters, too.

ıally, the *scale* of our tech- gies enables man to do more ge in a brief span than ever e. Environmental protection not mean repealing those tech- gies and returning to the ages k-and-shovel labor. But it does acting on our relatively new ption about the finite quantity ods available to us. In par- ır, it means redefining our con- of economic growth to focus mproving the quality of in- ual human lives, rather than on essive, constant increases in ımption.

is is not an empty piety, ituting sentiment for common . Fred Kahn, the anti-inflation and an economist, put the er well in a recent speech. popular conception that we make choices between 'eco- ic welfare' and environmental ction or energy conservation," aid, "is simply wrong. Environ- tal values *are* economic values: in principle just as important, he interest of economic ef- ncy and therefore economic are, and inflation control, to erve our limited natural re- ces, to make wise and sparing of our limited clean air, water, living space, as it is to econo- in the use of labor, capital, energy supplies."

ıere is no certainty as to whether environmental perception has ed soon enough to protect man massive, irreversible damage is life-support system. But the ad of environmental ideas has surely extended far beyond any supposed coterie of the elite into all corners of the world, and into all forms of governments.

Moreover, those ideas are here to stay. Environmental protection will undoubtedly suffer some setbacks in the years and decades to come. Yet the notion that economic growth cannot any longer be divorced from environmental health will remain a permanent feature in future human thought and action.

It will undeniably be expensive to direct our national and international actions in conformity with that idea and to reverse the damage already caused by our pursuit of economic goals separate from environmental values. Yet deferring the necessary investment now can require vastly larger spending in the future.

So far, for example, the cleanup at Love Canal has cost the New York government $24 million; had the proper environmental controls been in place, an investment of $2 million would have made that site secure. Similarly, the state of North Carolina may have to spend between $2 and $12 million to clean up PCB's illegally sprayed along roadsides at night; proper disposal of those wastes would have cost only $100,000.

Finally, the Kepone disaster at Hopewell, Virginia could have been prevented by an investment at the Life Sciences plant of $200,000. So far, claims against the company total $20 million, and it is doubtful that a federal investment of several *billion* dollars would suffice to clean up the James River.

If anyone needed a working definition of inflation, these examples would provide it. By failing to make prudent investments in environmental regulation years ago,

we are paying a much higher price today.

As a matter of prudence, all nations must make sure that environmental investments pay their way in terms of avoiding risk and providing benefit. But we must also do our best to prevent inadequate concepts of "cost" and "benefit"—based on a deficient economics and biased in favor of resource depletion—from reversing the repair work we have begun on our global home. We can pay for that repair work now, at substantial economic cost and international inconvenience. Or we can pay for it later—at much greater cost.

We have made the right choice. Let's pay now.

Roster of Members and Delegates at the Eighty-Third Annual Meeting

Delegates	Representing
Abdallah, Mr. Abulgasim S., New York, NY	Permanent Mission of the Libyan Arab Republic to the United Nations
Allen, Dr. Barbara, Rutherford, NJ	Fairleigh Dickinson University
Alspach, Dr. G. Samuel, Westminster, MD	Western Maryland College
Andren, Ms. Joan, Blue Bell, PA	Montgomery County Community College
Andren, Dr. Richard, Blue Bell, PA	Montgomery County Community College
Arnott, Miss Margaret L., Philadelphia, PA	English-Speaking Union, Philadelphia Branch
Barabas, Dr. Arthur H., Lancaster, PA	Franklin and Marshall College
Barnett, Dr. Marguerite Ross, Silver Spring, MD	Howard University
Batten, Mr. Bobby, Hampton, VA	American Institute of Aeronautics and Astronautics
Beardsley, Prof. Elizabeth L., Philadelphia, PA	American Society for Political and Legal Philosophy
Beardsley, Prof. Monroe, Philadelphia, PA	American Philosophical Association
Bednar, Dr. Charles S., Allentown, PA	Muhlenberg College
Bence, Prof. Robert, North Adams, MA	North Adams State College
Benz, Mr. Robert, Newark, NJ	City of Newark, New Jersey
Berg-Cross, Dr. G., Chester, PA	Widener College
Blackman, Mr. David, New York, NY	Embassy of Barbados to the United States
Blaisdel, Dr. Muriel, Potsdam, NY	State University College at Potsdam
Blum, Mr. Michael D., Philadelphia, PA	American Immigration and Citizenship Conference
Blumm, Mr. Stephen, Blue Bell, PA	Montgomery County Community College
Brown, Dr. Edward K., Philadelphia, PA	School District of Philadelphia
Brown, Dr. Prince, Jr., Knoxville, TN	Knoxville College
Bubolz, Dr. Margaret M., East Lansing, MI	Michigan State University

DELEGATES	REPRESENTING
Bulat, Mr. Valery B., New York, NY	Permanent Mission of the Byelorussian Soviet Socialist Republic to the United Nations
Burns, Mr. William D., Blackwood, NJ	Camden County College
Buzinkai, Dr. Donald, Wilkes-Barre, PA	King's College
Caldwell, Dr. Lynton Keith, Bloomington, IN	Indiana University
Capelle, Mr. Russell B., Northfield, VT	Norwich University
Chandler, Dr. Cleveland, Baltimore, MD	Howard University
Chang, Prof. Y. C., Newark, DE	The United Nations Association of the Republic of China
Clark, Mr. John P., Jr., Glenside, PA	American Society for Metals
Condon, Mr. Bernard, Elmont, NY	Iona College
Conroy, Dr. William J., Buffalo, NY	State University of New York at Buffalo
Craft, Dr. James P., Jr., Collegeville, PA	Ursinus College
David, Dr. William M., Jr., Westminster, MD	Western Maryland College
Davis, Dr. Allen, Philadelphia, PA	Organization of American Historians
Davis, Mr. Jack, Potomac, MD	Central Intelligence Agency
dee Swain, Dr. Johnnie, Jr., Jackson, MS	Jackson State University
Dhiravegin, Dr. Likhit, Ithaca, NY	Thammasat University, Thailand
Diamandopoulos, Dr. Peter, Rohnert Park, CA	Sonoma State University
Dison, Dr. Jack, State University, AR	Arkansas State University
Dixon, Dr. Albert, Allentown, PA	Kutztown State College
Downing, Prof. Rondal G., Detroit, MI	Wayne State University
Dynes, Mr. Wallace, Newark, DE	University of Delaware
Edwards, Dr. Marvin L., Potsdam, NY	Clarkson College of Technology
Eisenhower, Mr. David, Purchase, NY	Manhattanville College
Farrell, Dr. John J., Lancaster, PA	Franklin and Marshall College
Feldman, Ms. Roberta, Westfield, NJ	The City University of New York, Graduate School and University Center

DELEGATES	REPRESENTING
Fishel, Mr. John R., Philadelphia, PA	American Immigration and Citizenship Conference
Frasure, Mr. William G., New London, CT	Connecticut College
French, Dr. George W., Philadelphia, PA	School District of Philadelphia
Frost, Dr. Murray, Omaha, NE	University of Nebraska at Omaha
Galambos, Mr. Jozsef, New York, NY	Permanent Mission of the Hungarian People's Republic to the United Nations
Gannaway, Mrs. Susan, Rochester, NY	Nazareth College of Rochester
Geeve, Ms. Yvonne, Pomona, NJ	Stockton State College
Glick, Prof. Thomas, Boston, MA	Boston University
Goldfried, Mr. Edwin J., Philadelphia, PA	National Recreation and Park Association
Gorman, Lt. Col. Thomas P., Carlisle Barracks, PA	U.S. Army War College
Gornitsky, Ms. Linda, Stamford, CT	The City University of New York, Graduate School and University Center
Gould, Dr. Florence, Houston, TX	Houston Baptist University
Green, Prof. Stephen, North Adams, MA	North Adams State College
Hall, Dr. Julia G., Philadelphia, PA	Drexel University
Harvey, Mr. Charlie R., Villanova, PA	American Association of Law Libraries
Hassouna, Dr. Hussein A., Washington, DC	Embassy of the Arab Republic of Egypt to the United States
Heaney, Mr. Joseph, Penn Wynne, PA	The Xavier-Damians Christian Life Community
Hearn, Dr. Gail, Glenside, PA	Beaver College
Hilty, Dr. James, Philadelphia, PA	Organization of American Historians
Hoekzema, Mrs. Dorothea B., New York, NY	Association of American University Presses, Inc.
Hoekzema, Mr. Loren L., New York, NY	Association of American University Presses, Inc.
Hofkin, Dr. Fred, Philadelphia, PA	School District of Philadelphia
Holmes, Mrs. Virginia Dixon, Berwyn, PA	Clark College
Hopkirk, Dr. John W., Chester, PA	Widener College
Horn, Mr. Bernard, Washington, DC	U.S. Department of Housing and Urban Development/Office of Policy and Program Development
Howland, Ms. Delores L., Philadelphia, PA	American Immigration and Citizenship Conference

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Hubby, Mr. R. N., North Wales, PA	American Society of Mechanical Engineers
Huber, Dr. Steve, Glenside, PA	Beaver College
Ide, Mr. Carter, Washington, DC	The National War College
Johnson, Ms. Ruth Morris, Philadelphia, PA	Clark College
Joyner, Dr. Christopher C., Allentown, PA	The American Society of International Law
Kadlecek, Mr. John, Albany, NY	State University of New York at Albany
Kassai, Mr. Ervin, New York, NY	Permanent Mission of the Hungarian People's Republic to the United Nations
Kelley, Dr. Donald R., Mississippi State, MS	Mississippi State University
Kirsch, Mr. William, New York, NY	The Foundation Center
Klausner, Dr. Samuel Z., Philadelphia, PA	American Sociological Association
Klein, Dr. Lawrence R., Philadelphia, PA	The University of Michigan
Kleiner, Dr. Robert J., Philadelphia, PA	American Sociological Association
Knight, Dr. Thomas J., University Park, PA	The Pennsylvania State University
Kohalmi, Dr. Zsolt, Washington, DC	Embassy of the Hungarian People's Republic to the United States
Komissarov, Mr. Nikolai, New York, NY	Permanent Mission of the Byelorussian Soviet Socialist Republic to the United Nations
Koning, Mr. Hendrik B., Philadelphia, PA	The American Society of Mechanical Engineers
Krause, Dr. Leonard, Philadelphia, PA	National Science Teachers Association
Kurylko, Prof. Lubamyr, New Providence, NJ	Stevens Institute of Technology
Lakshmanan, Prof. T. R., Boston, MA	Boston University
Lawrence, Dr. Vinnedge M., Washington, PA	Washington and Jefferson College
Lee, Dr. Allen B., Washington, PA	Washington and Jefferson College
Leela, Dr. S. N., Millersville, PA	Millersville State College
Lemons, Mr. John D., Henniker, NH	New England College
Leone, Dr. Richard, Philadelphia, PA	Industrial Relations Research Association
Levitt, Dr. I. M., Philadelphia, PA	City of Philadelphia

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Lewis, Mr. Wallace S., Philadelphia, PA	Livingstone College
Lewis, Mrs. Wallace S., Philadelphia, PA	Livingstone College
Liivak, Mr. Arno, Camden, NJ	American Association of Law Libraries
Liroff, Mr. Richard A., Washington, DC	The Conservation Foundation
Lizza, Mr. Robert, Waterville, ME	Colby College
Loomis, Mr. Glen H., Washington, DC	U.S. Department of Agriculture, Office of Environmental Quality Activities
LoSciuto, Dr. Leonard A., Philadelphia, PA	American Psychological Association
McGonigle, Mr. Bernard J., Media, PA	American Association of Community and Junior Colleges
McGuire, Dr. David, East Orange, NJ	Upsala College
McNulty, Ms. Hester, Boulder, CO	League of Women Voters of the United States
McWhorter, Dr. John C., III, Mississippi State, MS	Mississippi State University
Margulies, Harold, M.D., Rockville, MD	U.S. Department of Health, Education and Welfare, Public Health Service
Mayer, Dr. Donald F., Jr., Shippensburg, PA	Shippensburg State College
Meinschein, Dr. Warren, Bloomington, IN	Indiana University
Milbrath, Dr. Lester W., Buffalo, NY	State University of New York at Buffalo
Miles, Ms. Willie L., Washington, DC	The Association for the Study of Afro-American Life and History
Miller, Dr. Douglas J., Philadelphia, PA	Eastern Baptist Theological Seminary
Miller, Dr. Eugene H., Collegeville, PA	Ursinus College
Mills, Mr. Stephen F., Keele, England	University of Keele, England
Minkel, Ms. Jean L., Waterville, ME	Colby College
Mintz, Mr. Sidney, Philadelphia, PA	American Anthropological Association
Mohammed, Mrs. Jeannette, Brunswick, NJ	Embassy of the Democratic Republic of Madagascar to the United States
Morial, Mr. Marc H., Philadelphia, PA	City of New Orleans, Louisiana

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Morrison, Ms. Claire, Detroit, MI	National Association of Women Lawyers
Moser, Dr. Robert, Aston, PA	Our Lady of Angels College
Mukerji, Mr. Prafulla, Brooklyn, NY	Taraknath das Foundation
Naley, Mr. David F., Alexandria, VA	Central Intelligence Agency
O'Brien, Dr. R. J., Newtown, PA	Bucks County Community College
Oplinger, Dr. Carl S., Allentown, PA	Muhlenberg College
Orth, Mr. Richard C., New York, NY	American Institute of Aeronautics and Astronautics
Pant, Mr. Umesh, Dearborn, MI	Henry Ford Community College
Pollock, Prof. Franklin, Teaneck, NJ	Stevens Institute of Technology
Pondy, Dr. Pat R., Newton, NJ	County College of Morris
Rahman, Mr. Inam, Washington, DC	Embassy of India to the United States
Reinard, Mr. John, Vineland, NJ	Cumberland County College
Richter, Ms. Ana, New York, NY	Permanent Mission of Argentina to the United Nations
Rienow, Prof. Robert, Albany, NY	State University of New York at Albany
Robertshaw, Ms. Nancy L. M., Philadelphia, PA	Historical Society of Pennsylvania
Robertshaw, Mr. Wayne G., Cherry Hill, NJ	Historical Society of Pennsylvania
Robin, Mr. Sidney, Richboro, PA	American Society of Civil Engineers
Roxby, Bruce S., M.D., Philadelphia, PA	American College Health Association
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Rutley, Ms. Mary, Colton, NY	State University College at Potsdam
Saran, Dr. Parmatma, Great Neck, NY	Taraknath das Foundation
Scarrow, Dr. Howard, Stony Brook, NY	State University of New York at Stony Brook
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Schneider, Dr. Maxyne D., S.S.J., Chicopee, MA	College of Our Lady of the Elms
Schramm, Mrs. John C., W. Redding, CT	The Calvin K. Kazanjian Economic Foundation, Inc.
Schupf, Ms. Nicole, Purchase, NY	Manhattanville College
Schwartz, Dr. Alan M., Canton, NY	St. Lawrence University

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Shaker, Dr. Mohamed I., Washington, DC	Embassy of the Arab Republic of Egypt to the United States
Shea, Mr. John, West Chester, PA	West Chester State College
Sheldon, Dr. Joseph, St. Davids, PA	Eastern College
Sika, Mr. Emmanuel A., Washington, DC	Embassy of the Republic of Ivory Coast to the United States
Singh, Dr. Amarjit, Greensboro, NC	North Carolina Agricultural and Technical State University
Sister Elaine Martin, Aston, PA	Our Lady of Angels College
Sister James Margaret, I.H.M., Immaculata, PA	Immaculata College
Smith, Mr. Bradley H., Carlisle, PA	Shippensburg State College
Smith, Mr. Norville L., Cheyney, PA	Cheyney State College
Spitz, Dean Allan, Durham, NH	University of New Hampshire
Splansky, Dr. Joel, Long Beach, CA	California State University Long Beach
Stephenson, Dr. Glenn V., Millersville, PA	Millersville State College
Stock, Mr. Al, Philadelphia, PA	American Society of Mechanical Engineers
Stoner, Mrs. A. J., Woodbury, NJ	Longwood College
Stout, Dr. Bob, Newtown, PA	Bucks County Community College
Strikwerda, Dr. Charles, St. Davids, PA	Eastern College
Sudol, Mr. Frank, Newark, NJ	City of Newark, New Jersey
Sullivan, Dr. Michael J., III, Philadelphia, PA	Drexel University
Symick, Mr. Joseph R., Philadelphia, PA	American Society of Civil Engineers
Tancredi, Mr. Saverio, Philadelphia, PA	The Xavier-Damians Christian Life Community
Thompson, Mr. John K. L., Washington, DC	Embassy of Great Britain to the United States
Thorn, Mr. Terence, Arlington, VA	American Gas Association
Waugh, Mr. David A., Washington, DC	International Labor Organization
Wecker, Prof. Stanley, New York, NY	The City College of the City University of New York
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Welch, Mr. Robert, Wilmington, DE	American Gas Association
Williams, Mr. David C., Sumner, MD	Americans for Democratic Action
Williams, Mrs. David C., Sumner, MD	Americans for Democratic Action

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Wilson, Ms. Betty, Trenton, NJ	State of New Jersey
Wilson, Prof. Percy A., Henniker, NH	New England College
Wiser, Dr. Herbert L., Washington, DC	Environmental Protection Agency, Office of Research and Development
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Report of the Board of Directors to the Members of the American Academy of Political and Social Science for the Year 1978

MEMBERSHIP

MEMBERSHIP AS OF DECEMBER 31

Year	*Number*
1968	25,158
1969	24,597
1970	24,544
1971	23,413
1972	21,963
1973	21,070
1974	19,473
1975	16,923
1976	15,516
1977	14,202
1978	12,816

FINANCES

Our bank balance at the end of 1978 was $59,720.

SIZE OF SECURITIES PORTFOLIO

MARKET VALUE AS OF DECEMBER 31

1968	$566,681
1969	539,083
1970	616,429
1971	612,046
1972	642,808
1973	533,024
1974	371,004
1975	440,450
1976	504,046
1977	451,545
1978	385,795

INCOME STATEMENT FOR THE YEAR ENDED DECEMBER 31, 1978

INCOME:			
Dues and Subscriptions		$205,813.44	
Sales of Publications		36,200.81	
Sales of Review Books		2,245.00	
Advertising Revenues		8,351.95	
Royalties and Reprint Permissions		6,044.63	
Annual Meeting Revenues		7,803.84	
List Rentals		4,186.42	
Rents		1,200.00	
Miscellaneous Revenues		197.16	
Total Revenues			$272,043.25
OPERATING EXPENSES:			
Salaries	$119,046.11		
Payroll Taxes	9,584.34		
Pension Expenses—Funded	16,186.00		
Pension Expenses—Unfunded	4,181.50		
Total Salaries and Fringe Benefits		$148,997.95	
Publications—Printing, Binding & Mailing		100,733.53	
Bad Debt Expense		121.00	
Annual Meeting Expenses		8,262.88	
Bookkeeping Services		1,758.00	
Depreciation		618.00	
Editorial Services		2,500.00	
Insurance		2,958.46	
List Rental Expenses		3,977.41	
Miscellaneous Expenses		2,376.01	
Postage		8,175.94	
Printing, Duplicating & Stationery		7,094.86	
Promotional Expenses		17,285.75	
Repairs and Maintenance		4,051.27	
Supplies		1,799.76	
Telephone		1,975.63	
Utilities		3,332.95	
Total Operating Expenses			316,019.40
Operating Loss			($43,976.15)
OTHER REVENUE (EXPENSES):			
Investment Income	$27,288.15		
Less: Investment Fees	(2,257.72)	$25,030.43	
Gain on Sale of Investments		2,384.52	
National Science Foundation Grant Overhead Charges		2,271.33	
Cancellation of Prior Year's Accounts Payable		4,483.70	34,169.98
Net Loss			($9,806.17)
Retained Earnings—January 1, 1978			329,475.48
Retained Earnings—December 31, 1978			$319,669.31

COMPARATIVE FINANCIAL DATA FOR YEARS SHOWN

	1978	1977
1. CONDENSED OPERATING STATEMENTS:		
Revenues:		
Dues and Subscriptions	$205,813	$205,818
Sale of Publications	38,446	21,866
Advertising Revenues	8,352	13,540
Annual Meeting Revenues	7,804	7,732
Miscellaneous Revenues	11,628	10,092
	$272,043	$259,048
Operating Expenses:		
Salaries and Fringe Benefits	$148,998	$159,401
Publications—Printing, Binding and Mailing	100,734	100,191
Other Operating Expenses	66,287	51,570
Total Operating Expenses	$316,019	$311,162
Operating Loss	($43,976)	($52,114)
Other Revenue (Expenses)	$34,170	$38,798
Income (Loss) Before Taxes	($9,806)	($13,316)
Provision for Federal Income Tax	-0-	1,699
Excess of Expenses over Revenue	($9,806)	($15,015)
2. INVESTMENTS AT END OF YEAR—AT COST	$355,696	$408,287
3. NET WORTH AT END OF YEAR	$319,669	$329,476

PUBLICATIONS

NUMBER OF VOLUMES OF *The Annals* PRINTED

(6 PER YEAR)

1968	147,631
1969	154,153
1970	145,456
1971	139,450
1972	143,360
1973	132,709
1974	120,397
1975	104,049
1976	101,789
1977	91,367
1978	85,605

NUMBER OF VOLUMES OF *The Annals'* SOLD

(IN ADDITION TO MEMBERSHIPS AND SUBSCRIPTIONS)

1968	13,072
1969	15,610
1970	14,143
1971	10,046
1972	16,721
1973	12,430
1974	13,153
1975	13,034
1976	12,235
1977	6,296
1978	8,124

During 1978, the six volumes of THE ANNALS dealt with the following subjects:

January *America in the Seventies: Some Social Indicators*, edited by Conrad Taeuber, Director, Center for Population Research, Georgetown University, Washington, DC.

March *American Indians Today*, edited by J. Milton Yinger, Professor of Sociology and Anthropology, Oberlin College, Oberlin, Ohio and George Eaton Simpson, Professor Emeritus of Sociology and Anthropology, Oberlin College, Oberlin, Ohio.

May *Medical Ethics and Social Change*, edited by Bernard Barber, Columbia University, New York (Barnard College, Graduate Faculties, and Center for Social Sciences).

July *Planning for the Elderly*, edited by Marvin E. Wolfgang, President of this Academy.

September *Urban Black Politics*, edited by John R. Howard, Professor of Sociology and Dean, Division of Social Sciences, State University of New York, College at Purchase and Robert C. Smith, Assistant Professor of Political Science, State University of New York, College at Purchase.

November *The European Community After Twenty Years*, edited by Pierre-Henri Laurent, Professor of History, Tufts University, Medford, Massachusetts and Adjunct Professor of Diplomatic History, Fletcher School of Law and Diplomacy, Tufts University, Medford, Massachusetts.

The publication program for 1979 includes the following volumes:

January *Race and Residence in American Cities*, edited by Wade Clark Roof, Professor of Sociology, University of Massachusetts, Amherst, Massachusetts.

March *The Human Dimension of Foreign Policy*, edited by John Richardson, Jr., President, Youth for Understanding, Washington, DC.

May *Risk and Its Treatment: Changing Societal Consequences*, edited by George E. Rejda, Professor of Economics, College of Business Administration, University of Nebraska, Lincoln, Nebraska.

July *The Environment and the Quality of Life: A World View*, edited by Marvin E. Wolfgang, President of this Academy.

September *Contemporary Issues in Sport*, edited by James H. Frey, Editor, *Journal of Sport and Social Issues*, and Professor of Sociology, University of Nevada, Las Vegas, Nevada.

November *Church and State*, edited by Dean M. Kelley, Executive for Religious and Civil Liberty, National Council of Churches, New York, NY.

During 1978, the Book Department of THE ANNALS published 300 reviews. The majority of these were written by professors, but reviewers also included university presidents, members of private and university-sponsored organizations, government and public officials, and business professionals. Over one thousand books were listed in the Other Books section.

One hundred and nineteen requests were granted to reprint material from THE ANNALS. Most of these went to professors and other authors for use in books in preparation.

MEETINGS

The eighty-second annual meeting, which was held in April 1978, had as its subject *Planning for the Elderly*, and continued the tradition of our gatherings with respect to the diversity of organizations represented by delegates, the size of the audiences and the interest displayed. Five embassies sent official delegations, as did 2 United Nations missions and 34 states, cities and agencies of the federal government. Delegates were also sent by 114 American and foreign universities and colleges and 58 international,

civic, scientific and commercial organizations. Nearly 500 persons attended one or more of the sessions. The average attendance for a session was 500.

The theme of the 83rd Annual Meeting held April 6 and 7, 1979, at the Benjamin Franklin Hotel, Philadelphia, was *The Environment and the Quality of Life: A World View.* This volume of THE ANNALS contains the papers presented at the meeting.

OFFICERS AND STAFF

Board members, Norman D. Palmer and Marvin E. Wolfgang were reelected for another three year term. Marvin E. Wolfgang was reelected President for a year and Richard D. Lambert as Vice-President.

The Board also renewed the term of its counsel, Henry W. Sawyer, III, and Norman D. Palmer a Secretary.

All other officers were reelecte(and both Editor and Assistant Edito were reappointed.

Respectfully submitted,

THE BOARD OF DIRECTORS

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Lloyd N. Cutler
Matina S. Horner

Philadelphia, Pennsylvania
1 June 1979.

Book Department

INTERNATIONAL RELATIONS AND POLITICS

WILLIAM R. CLINE et al. *Trade Negotiations in the Tokyo Round: A Quantitative Assessment.* Pp. xiv, 314. Washington, DC: The Brookings Institution, 1978. $11.95.

ALFRED TOVIAS. *Tariff Preferences in Mediterranean Diplomacy.* Pp. xxi, 153, New York: St. Martin's Press, 1978. $13.95.

These two books deal with the future of international trade and are complementary in many respects. Cline and colleagues address themselves to several models of tariff cuts, evaluate their consequences with the aid of simulations, and argue that the furtherance of free trade would not prove unduly expensive to industrialized countries. Tovias, on the other hand, provides a selective narrative of recent developments and policies relating to international trade and shows many reasons why preferential arrangements are likely to be faithful companions of striving for freer international trade.

The Brookings study calculates the expected impact of the various tariff and non-tariff formulae on the balances of trade, employment levels, and static welfare gains in various industrialized countries. Long-term adjustments of demand, substitution among goods, and changes in the efficiency of production are assumed away. The basic model used is that of one-commodity partial-equilibrium.

Whichever formula for cutting tariffs is adopted, similar conclusions emerge. The specific results discussed here relate to the formula which is equivalent to the maximum possible American concession under the 1974 Trade Act: that is, 60 percent cut in tariffs and complete removal of tariffs below the 5 percent level. The estimated impact on certain key variables could be summarized as follows: freer trade would not result in trade deficits of major consequence; the largest increases in deficits would be for the European Community and Canada, 1 percent and 3 percent respectively; the volume of trade would increase appreciably but not dramatically; industrial countries would see their trade rising by about 2 percent, or by $11 billion in 1974 terms. Much more impressive would be total welfare gains, reaching possibly the total value of $170 billion in 1974 values and, allowing for static effects only, reduction of employment in industrial countries would not be significant except for the consequences of freeing the trade in agricultural products. This would cost the European Community about 400,000 jobs but an efficiency-minded observer might add that this would be a rather welcome change. Among manufactures,

freeing the trade in textiles would be the greatest single contributor to changes in trade balances and employment levels; less developed countries would benefit from the general reduction of tariffs twice as much as they would from the existing generalized preference systems; here it is important to reiterate that dynamic gains from tariff reductions are not considered.

The book conveys Cline's conviction that if only politicians, journalists, and other influential groups understood that further liberalization of trade does not pose problems on a national scale, the cause of a further and more brisk march towards liberalization would gain.

Tovias is an observer of preferential arrangements; he is not approving of them but merely states that preferences appear as natural concomitants of the successful march towards opening trade frontiers. The argument is developed in the form of a selective chronicle of events, enlivened by a commentary. This method cannot prove or disprove statements but is not inept in making the reader understand the reason behind, and the role of, retaining preferences in a free trade world.

Tovias' list of the types of preferential agreements makes the reader aware of the many ways in which special economic links between economic groups can express themselves. There are traditional postcolonial contacts (as between France and most of northern and western Africa); cooperation stemming from tradition and geography (United States and Canada); protection of the pace at which one would like to phase out lame-duck industries and occupations (textiles and agriculture); concern about the slow speed with which relatively immobile factors of production react to sudden changes; and finally, generalized systems of preferences, sometimes linked to reverse preferences, that single out for special treatment economically neglected areas of the world.

Tovias devotes some attention to the criteria that would distinguish between acceptable and unacceptable forms of preferences. The former are those that are meant to lead to permanent forms of integration, as is the case with those Mediterranean countries that are bona fide applicants for membership in the European Community. Other preferential agreements are looked upon with disfavour. The reviewer's appetite has been whetted but not satisfied by an inquisitive presentation of various forms of preferences that should have led to a more subtle delineation of distinctions between arrangements. It would be useful if these criteria were of a less legalistic nature—that is, the application of the letter of the General Agreement on Treaties and Tariffs—and more related to the economic goals and costs of the various preferences.

The reader should be warned that the complementary character of the two books does not, by any means, add up to a balanced and complete presentation of the issues relating to the future of international trade.

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JOHN M. DOBSON. *America's Ascent: The United States Becomes a Great Power, 1880–1914.* Pp. viii, 251. De Kalb, IL: Northern Illinois University Press, 1978. $15.00.

In dealing with the 1880 to 1914 years, Professor Dobson avers that "the United States did not aimlessly wander into world-power status; the American people deliberately chose to seek it" (p. 4). He finds three dominant themes in America's rise to international prominence: economic expansion, political aggrandizement, and moral assertiveness. He concludes that "no analysis of American foreign policy from 1880 to 1914 can be complete without consideration of all these underlying themes. Taken together, they can clarify and categorize virtually everything that took place" (p. 22).

Relying largely on government documents, contemporary articles and speeches, manuscript letters, and the most recent monographs, the author ably defends his thesis. His book furnishes a well balanced account of American

diplomacy from the first imperialistic stirrings to the eve of World War I. His brief character evaluations of the presidents and their secretaries of state are of high quality.

Professor Dobson's heroes are Teddy Roosevelt, whose foreign policies were realistic, and Elihu Root, a secretary of state who knew how to work effectively with the Senate. As for Taft and Wilson, the author concludes: "Unfortunately, those who succeeded Roosevelt lacked his intelligent realism, which meant that American initiatives in both the Far East and Latin America appeared clumsier, more callous, and ultimately much less successful" (p. 202).

Occasionally the author's account varies somewhat from standard textbook treatment. For example, he finds that Blaine acted with moderation in the Chilean imbroglio in 1891; and with regard to the Venezuelan boundary dispute, "Cleveland's strident language (December 17, 1895) tended to obscure the basic moderation of his actual proposal" (p. 82).

As for the Open Door, Dobson maintains that "Hays' initiative essentially worked, providing a welcome cooling off period in the imperialistic contest over Far Eastern trade and dominance. More to the point, the Open Door policy rescued Hays from the necessity of capturing a sphere of influence of his own country" (p. 185). Although some of these points are debatable, this concise and judiciously written monograph is well worth reading by both laymen and specialists in the field.

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JAMES E. DORNAN, JR., ed. *United States National Security Policy in the Decade Ahead.* Pp. viii, 304. New York: Crane, Russak & Company, 1978. $15.95.

This anthology stakes security upon strategic use of factors, "functional" and "geographical" alike, rather than upon certain factors per se (pp. 284–85). Functional proposals stress innovative strategic doctrine (F. Barnett), limited diplomatic secrecy (R. Schuettinger), economic warfare (E. Feulner, Jr.), intragovernmental consensus on doctrine (J. Lehman), dynamic military assessment (W. Schneider, Jr.), and symmetrical rules of conflict (R. Conquest). Geographical proposals gear alliance with "bastion states" more to "forward strategy" than "human rights" in European (C. Gray), Mideast (S. Gibert), Asian (F. Michael), Pacific (A. Sabrosky), Latin American (J. Tierney, Jr.), and African (A. Harrigan) theaters, inviting selective "strategic containment" of expansionism (J. Dornan, Jr.). In sum, one's own security entails reducing, not raising, the other's sense of security, vitiating defensive containment and détente alike (pp. 3–4, 274–80).

Such a "grand strategy" may diversify security policy by multiplying, hence alternating, security factors (for example, alternating economic with diplomatic "warfare"). One implicit corollary is a Richardson-like escalation in the scope, not just strength, of international capabilities. Yet most contributors wed such factors to the "hawkish" function of countering expansion, versus the "dovish" function of prompting integration (save among status quo powers) to at least transpose zero-sum into mixed-sum conflict; only one entry critiques forward strategy—in Africa. It is thus a multifactor but single-function approach.

The informal, at times hortatory, style may democratize debate on national security. Such debate can air new strategic doctrines before new capabilities anachronize the precept of deterrence itself. Yet the work's narrative style precludes refinement of its approach: it neglects possible interaction between factors (for example, economic warfare vs. forward alliance with LDCs); it slights the East Europe factor, despite preoccupation with Moscow as enemy number 1; it yields nonsystematic data—hence nonprojectable to "the decade ahead"—on all but the military factor, despite its more-than-military approach. Such casual analysis belies the symposium's apocalyptic theme.

One paradox of this volume is that

strategy in extremis challenges morality, and thereby morale—witness America's Vietnemesis—eroding security within while intending to shield it without. This daunts not only "pure realpolitik" (pp. 280–82) but "grand strategy" doctrines. Another dilemma is the need for both foresight and relevance to unforeseeable realities that already outdate key, near-term proposals on China, Iran, Panama, and others (pp. 213, 235, 286). Finally, the work's single scenario—declining US/USSR strategic balance—seems credible as the book's centerpiece; yet that credibility is a two-edged sword, incurring a lock-in effect against flexible response to alternative decades ahead.

CRAIG MCCAUGHRIN

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ALFRED M. LILIENTHAL. *The Zionist Connection: What Price Peace?* Pp. 872. New York: Dodd-Mead, 1978. $19.95.

Alfred Lilienthal has been studying and writing on the Palestine problem ever since the appearance of his article, "Israel's Flag is not Mine," in the *Reader's Digest* (1948). His first book on the subject was *What Price Israel?* His latest contribution, *The Zionist Connection. What Price Peace?*, is monumental and encyclopedic in character and probes into practically every facet of the Arab-Israel conflict. Part I covers "the original sin" in the events leading to the ultimate establishment of Eretz Israel, beginning with the Balfour Declaration of 2 November 1917, and the initial involvement of the United States. Part II treats of the "cover up." Part III deals with the "cover over," while Part IV raises the question of "politics or policy" in connection with the Palestine issue. The book is lucidly written and thoroughly researched and documented. It should command a very wide reading.

Mr. Lilienthal devotes much attention to the politics, pressures, and propaganda which the various Zionist organizations have used in the United States to influence American policy in behalf of Israel without regard to the American national interest in the peace and security of the Middle East, access to Middle Eastern oil, and concern for th inherent rights of the Palestine Arab who lost their homes, their livelihoo and their country. The author has pu together more of the real story, withi the confines of a single volume, tha anyone else. It is not a pretty story, and i is not flattering either to the Unite States Government or to the America people, who have allowed Zionists t dominate American policy in the area.

Thirty years after the founding o Eretz Israel—and even after four wars, with Israel often the aggressor—Mr. Lilienthal still believes that peace is possible between Israelis and Arabs. But he holds that it is conceivable only if Israel gives up its territorial gains achieved in the 1967 blitzkrieg—the Sinai Peninsula, the Golan Heights, the West Bank of the Jordan River and the Gaza Strip—and permits the Palestinian Arabs to exercise their right of self-determination.

In addition, Mr. Lilienthal holds that Israel must be "de-Zionized," with Jews, Arabs, and others living together on a basis of equality in a secular state. He also believes it essential that the umbilical cord binding Israel to the United States in a so-called "special relationship" must be severed, and the United States must pursue a balanced policy in the Middle East. This is a highly controversial volume which must not be ignored. It should be studied by all who seek enlightenment concerning the Middle East and especially by government officials, Congressmen, and Senators. One might well begin with members of the Foreign Relations Committee of the United States Senate and make it required reading. Both the author and the publisher are to be congratulated on publication of this volume.

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JOHN BARTLOW MARTIN. *U.S. Policy in the Caribbean.* Pp. xvii, 420. Boulder, CO: Westview Press, 1978. $19.00.

The interest of the American people in their own hemispheric lake, the Caribbean, has fluctuated throughout

the twentieth century much more than can be readily or easily understood. Our imperialistic surge brought us into contact, and collision, with peoples and issues alien in many respects and we seem to have been groping towards a relationship with some purpose and meaning ever since. In the past thirty years, however, dramatic and oftentimes sweeping events jar us and sound alarms that are better answered than ignored. It is this time span that forms the central focus of this book, which in its own way attempts to alert the reader to the alarms that are being sounded, even now, in this vital and complex area of the world.

The title of this book, *U.S. Policy in the Caribbean*, is accurate only if limited to the thoroughness with which the author treats issues and events, actions and reactions, causes and effects, since 1953. It comes very close to being one of the most comprehensive pieces of writing on that time segment done thus far, but a full treatment of this nation's relationship to the Caribbean it is not. In fact, the first twenty-eight pages which attempt to cover background and the author's own era—his diplomatic career qualifies him to write this study—should have been deleted altogether. No epoch as full as that ranging from the presidency of Thomas Jefferson to that of Dwight D. Eisenhower can be adequately traced in this scant space and its value to the book is doubtful.

Far more important is the author's detailed discussion and analysis of the various United States Presidents' conceptions of the Caribbean and their policy decisions for the region. Of great value are the author's own recollections and of equal value is that information drawn from his own contacts within the United States diplomatic service. It is both enlightening and instructive and when combined with a wide mixture of scholarly sources, the result is more than "memoir" or "autobiography."

The organization and writing are well done. Isolating each President from Eisenhower to Nixon-Ford is probably a good vehicle for such a topic. There is, unfortunately, a rather pronounced bias against the Eisenhower Administration's policies, and some scathing indictments of Ike's advisers. The label "elderly bankers" seems a bit strong, and occasional flights of adulation towards the Kennedy Administration ought to have been suppressed. This reviewer admits John F. Kennedy's oratory was good, and in some respects, inspiring, but the author's impression of the Kennedy speeches as "golden words of hope after the flabby prose" of Eisenhower is much overblown.

This assault on the Republicans and defense of the Democrats could have, if carried to excess, seriously eroded the quality of this book. It is to the author's credit that he did not capitulate to this temptation. Otherwise his oftentimes illuminating glimpses into the decision-making processes of the State Department, the glance at the bifurcated character of that agency and the peek into state-within-a-state activities of the CIA would have been tainted. As it stands, the book has value as a "first-person" account; as a historical overview of the past thirty years; as a set-piece analysis of international politics within the spectrum of localized problems; and as a penetrating economic inquiry into the nature and ends of this nation's alternating neglect and obsession with a crucial yet much bewildering sector of our globe.

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DAVID STRAUSS. *Menace in the West: The Rise of French Anti-Americanism in Modern Times*. Pp. xii, 317. Westport, CT: Greenwood Press, 1978. $22.50.

This work obviously invites comparison with Durand Echeverria's *Mirage in the West: A History of the French Image of American Society to 1815*. Mr. Strauss' title is less happy, as his discussion is perhaps less sophisticated. "Anti-Americanism" will do well enough for the egregious Georges Duhamel, but can it be applied to Jean-Jacques Servan-Schreiber? It is best kept in mind as a loose shorthand.

The heart of this study is the reactions

of French visitors 1918–1933, hence the central place of Dr. Duhamel, the fierce criticism by *lettrés* convinced of the dehumanizing menace of America. Puritan, anti-individualist, urban, mechanized, imperially-minded, grasping and coarse, the Americans were pictured as the anti-France. By no means all intellectuals saw it this way, but there was a widely accepted agreed-upon image then that has known various reincarnations since. Disenchantment with American withdrawal of the 1919 guarantee to France, anger at the insistence upon war debts, distaste for the racialist character of U.S. society, contempt for the hypocrisies of prohibition, all added material to the file against the New World. Some said it with sorrow, some with venom, but most said it: the United States was the antithesis of European culture. Other Europeans said it, but none so passionately as the French.

Fascinated and appalled, these visitors traipsed across the land (some, like Bernard Fäy, year after year), noting what they brought with them, their refined sensibilities outraged, pausing only to pick up their lecture fees before returning to Paris apartments and country houses, oblivious to the slums of their own cities, the "Asiatic conditions" (dixit Raymond Cartier) of their own villages. Many of these cultural gurus, let us remember, devotees of the status quo or dreamers of an imaginary strife-free society, comfortably rode the old Third Republic downhill to economic stagnation, imperial retreat and European abandonment, and an intellectual betrayal of civilization not yet investigated, until they were kicked back into the mainstream by the brutalities of Hitler's occupation and the exertions of "the Anglo-Saxons" and their own less refined countrymen.

They make an interesting subject for study. Mr. Strauss' book is clear and orderly, with a nice choice of quotation, an illuminating general work that leaves room for more pressing, specialized inquiries. His approach is fair-minded, and the nuances of the post-1933 period are well rendered.

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AFRICA, ASIA AND LATIN AMERICA

ROBERT J. ALEXANDER. *The Tragedy of Chile*. Pp. xii, 509. Westport, CT: Greenwood Press, 1978. $29.95.

The book under review is one of the more evenhanded treatments of the Allende regime and its aftermath that we have had, although some of its analysis will inevitably stir controversy in view of the highly charged emotions and ideological commitments that surround the subject.

If there is a central theme to the book it is the persistent "triumph of ideology over common sense" (p. 423), both under Allende and during the rule of the military which followed. If there is a single villain it is the left wing of Allende's Socialist Party, although the author distributes the blame for "the tragedy of Chile" from the far Left of the political spectrum to the far Right, and includes certain mistakes made by the pre-Allende Christian Democratic regime. Allende's principal political error is, in turn, said to be his failure to repudiate the left wing of his own party and to reach an accommodation with the Christian Democrats.

A second major Allende error was his increasing reliance on the military to stabilize the political situation, while simultaneously threatening its institutional prerogatives by allowing its monopoly of force to be challenged by paramilitary groups. At the same time, Alexander makes very clear that nothing that Allende and his supporters did justified the brutality of the military rulers who deposed him; as well, he is highly critical of the junta's economic and social policies. Similarly, while he characterizes CIA actions in Chile as "despicable" and "puerile" (p. 227), the author accords only marginal importance

to the efforts of the United States to destabilize the Allende government.

There are two points which Alexander makes that are sometimes overlooked in the analysis of the rise and fall of "the Chilean way" to socialism. One is that the trend toward political polarization and the related entry of the military into the political arena antedate the Allende regime. The other point is more controversial; namely, that despite the fact that democratic norms and procedures were largely maintained during the Allende years, the ultimate objective of many in Allende's Popular Unity coalition was to "use democratic means to achieve a totalitarian society." (pp. 447–48).

There are some curious omissions. Thus, in a book which includes material through mid-1977, there is no mention of the murder in Washington in September 1976 of Orlando Letelier, a former Cabinet minister in the Allende government. And the annotated bibliography fails to include many of the major works on recent Chilean politics. Nonetheless, while perhaps not definitive, this is a relatively balanced, readable book whose principal arguments this reviewer finds largely convincing.

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DAISY HILSE DWYER. *Images and Self-Images: Male and Female in Morocco.* Pp. xvii, 194. New York: Columbia University Press, 1978. $12.00. Paperbound $3.95.

Anthropology in the West grew, in part, as a reaction to Victorian chauvinism and missionary-like attitudes towards non-Western cultures and societies. Throughout its life span the profession has been trying, with varying degrees of success, to extract itself from wishing for others what it did and does consider "fit" and "good" in Western morality. Indeed, Western morality and ideologies continue to provide the judgmental perimeters of most comparative models in the social sciences. Dwyer's work under review is yet another symptom of this intellectual orientation lurking in American and, more particularly, in the recent American feminist anthropology which often draws its ideological fuel from a restricted understanding and interpretation of Hegelian dialectics and Marxian materialism.

The author utilizes thirty-five folktales, assorted proverbs, and aphorisms from the "inegalitarian" Muslim-Arab culture of the city of Taroudannt in southern Morocco in an attempt to "delineate" the structure and function of male "dominance" and female "subordination" through "symbolic analysis." Her discussion includes brief and selected ethnographic sketches of the Taroudannt culture and society with emphasis on how their culturally determined perceptions encourage and reinforce the male dominated "inegalitarian" structure of this Muslim-Arab society. While passing references are made to the fact that the Taroudannt social structure and values provide for female positions of power and effective participation in the life of the community, the author is committed to the assumption that women in the society are predisposed to an "image" of inferiority and a life of subjugation.

To make her point Dwyer utilizes restricted data about rites of transition and values regarding seclusion, female virginity, and Islam. Her Western feminist ideology comes close to suggesting that if the Moroccan women are to be liberated they should wear Western clothes, indulge in premarital sex, and set aside the values they attach to purity. This is radical intervention in the culture and society of a non-Western people and a clear-cut imposition of Western morality. Our task, at least in anthropology, is to understand and comprehend other cultures, including their symbols and categories of meanings. It is no business of the profession to engineer them with "isms" of the Western models of life.

Dwyer's attitude is a good example of the confusion which exists about Marxian "revolution" and "evolution." While

Marx was suggestive of revolution for his contemporary Europe, his main thesis on sociocultural transformation rested on evolution. However, the author does make an interesting point in the concluding chapter which in the main argues for the presence of a dialectic between the man-cultural and female-natural opposition in the Taroudannt society. Whether this is tenable or not, a careful examination of Islam and Dwyer's folktale data do not support adequately her argument and conclusions. Perhaps, among other things, an in-depth understanding of Islam, Arab-Muslim culture, and an effective command of Arabic could have upgraded the quality (and quantity) of her ethnographic descriptions and the attempted analysis of some important symbols and principles around which the Taroudannt culture and society revolve.

While the author admits that the total cultural context, "the encompassing system," is significant and complex, her actual renditions of perceptions, "images," and behavioral aspects of male-female sexuality among the Taroudannt entail little systematic adherence to the use of overall "artful" functional-structural interrelationships embedded in the Taroudannt cultural value patterns and social organization.

Aside from some brief ethnographic portrayals and folktales, anthropologists interested in the ethnology of North Africa (including Morocco), the Arab Middle East, will find little which is new. Some important anthropological, sociological, and psychological works on Moroccan, other North African, and Middle Eastern Muslim-Arabs, which bear very much on male-female perceptions and behavioral dynamics, are not noted.

Finally, this reviewer is compelled to ask the authors: how are questions like, "Why do these women leave the image of their inferiority essentially unchallenged?" (p. 5) any different from those asked by missionaries, other chauvinists, imperialists, and colonialists in their attitude toward non-Western (mostly non-Christian) cultures and societies? The book reminds one of a Western bench trial of Islam, the Taroudannt Muslim-Arab culture, and by implication, every other non-Western culture and ideology. Of course, and not surprisingly, the verdict is guilty. But the trial should *not* have been taken place to begin with.

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L. H. GANN and PETER DUIGNAN. *The Rulers of British Africa 1879–1914*. Pp. xiii, 406. Stanford: Stanford University Press, 1978. $18.50.

The partition of Africa in the 1880s has provoked a heated and extended debate. But the structure of governance the new colonial rulers set up has in the process been almost ignored. In this volume, L. H. Gann and Peter Duignan, who have written extensively on the European colonial empires in Africa, most recently that of Germany, survey the "sociological and functional characteristics" of the British empire builders during the heyday of the imperial era. The book, organized topically, contains chapters on each of the major elements of the colonial administrative system, from the Colonial Office in London down to the local assistants and technical specialists in the "bush." In each chapter, an overall account of the structure and working of the particular office is blended with case studies of representative colonial administrators. Most original, perhaps, are the two chapters on the military which, despite its obvious importance, is oddly neglected in most studies of imperial expansion. The authors are exceptional also in bringing into their account such rarely noticed agencies as the transport departments, medical services, and Crown Agents. The treatment of these topics is, however, too general and unsystematic to do more than whet the appetite. The successive chapters on the colonial governor and the district officer, by contrast, authoritatively put together from a vast array of published and manuscript materials, and compellingly written, could profitably be assigned to

students as a first-rate introduction to the world of the colonial administrator.

The volume argues no particular thesis. Nevertheless, its authors cannot suppress a certain pride in the imperial achievement. They are critical of several aspects of the colonial system, above all the use of forced labor in porterage and the radically exclusionary policy of government employment. But they repeatedly emphasize the benefits law and order, economic opportunity, and even European moral values brought to the African. Indeed, they vigorously insist that these European colonizers were among "the creators of modern Africa." The most recent critique of the colonial system, that of Marxist underdevelopment theory, they pointedly ignore.

The discursive anecdotal style of this book, together with its broad geographical span, is at once its strength and its weakness. Its comparative perspectives—including some striking insights into the differing styles of British and continental colonialism—and its evocation of a pattern of life long vanished, make the volume worth having. Yet it is but a first step toward understanding the colonial transformation of Africa.

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GAIL M. GERHART. *Black Power in South Africa: The Evolution of an Ideology*. Pp. 375. Berkeley, CA: University of California Press, 1978. $14.50.

Gail Gerhart has put together an important—even superb—book tracing the evolution of the ideology of black power or orthodox nationalism in South Africa. In doing so, she skillfully weaves into absorbing history the contributions of major figures in the movement—Anton Lembede, Ashby Peter Mda, Jordan Ngubane, P. K. Leballo, Robert Sobukwe and Steve Biko—and their interactions with those favoring more multiracial beliefs as well as the proponents of white supremacy.

So many of the current descriptioı of the rise of the black consciousne movement in South Africa and the ce: tral role played by the South Africa Students' Organization have treate these vital phenomenon in the histo: of South Africa as if they sprang for full blown in the 1970s. The author qui rightly and persuasively places them the context of their development.

The book is thus a complement many of the works dealing with Africa nationalism in South Africa, such Peter Walshe's *Rise of African N tionalism in South Africa*, Edwa Roux's *Time Longer Than Rope*, ar David Wood's *Biko*. At the same time, even more vividly captures the flav and passion of these terrible times whic have produced a cadre of black leade ship which is "proud, self-reliant, dete mined," and "psychologically prepare for confrontation with white Sou Africa." Well researched and careful crafted, this is a book to be read ar re-read by anyone seeking an unde standing of the situation in Sou Africa.

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A. K. M. AMINUL ISLAM. *Victorio Victims: Political Transformations a Traditional Society*. Pp. 158. Bosto G. K. Hall and Co., 1978. $12.00.

The author, who writes as a profe sional anthropologist, has an interesti point to make with respect to the study factional politics in Bangladesh, but l has been poorly served by his edit and his own wish to expand a usef seminar paper into a book. Instead being led directly and smoothly to wh is new and interesting, the reader's e is instead hit with mistakes of almo every kind and in almost every par graph—there are mistakes in spelli (Morely for Morley on p. 21, Zamiat f Jamiat, p. 20), mistakes in taste (a di tinguished scion of the Grants of Rothi murchus is referred to as "Sir J. P. p. 13), new words are invented ("depr

pertied" for dispossessed, p. 15), bizarre metaphors are employed ("Muslim Brahmins and Banias", p. 15), and very poor judgement is shown in historical interpretation (in promulgating the Permanent Settlement of Bengal in the 1790s the British were probably more interested in controlling the impact on British politics of their Indian conquests than they were in bringing order out of chaos in Bengal (pp. 13–14). Important Bengali terms are not explained ("gushti," p. 92) and allegations of an anti-Indian nature are made without supporting evidence. ("India robbed Bangladesh more in twenty-three days than Pakistan did in twenty-three years," p. 134).

The book is also structurally out of balance—too much space is given to a historical review that is of dubious merit while what the author has to tell us that is new is confined to "stream of consciousness" descriptions of typical Bengalis and reconstructed conversations with significant sources, especially among the Bangladesh military. The author's analysis of factional politics among the military is important. On the civilian side, he sees the old factional leaders as extinct while the new middlemen, the Freedom Fighters bred in war, have not yet found a way to coalesce in today's Hobbesian Bengal. He is confident that a pattern will emerge which will bring together Freedom Fighters and villagers and "probably" clear the way for political parties "when and if ever the situation stabilizes" (p. 129).

Despite its contribution, the book has too many blemishes to be recommended. For his next book the author, who appears to be a person of talent and character, must recognize his limitations and choose his next editor with greater care. In many ways he is the microcosm of his native Bangladesh. A noble religion of protest in imperialist times, Islam has yet to help its adherents in Bengai to define themselves in ways which do not enslave their "Bang" to the Others—to the "U. P. *walla*," to the Panjabi, and so on further west

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ANGUS W. MCDONALD, *The Urban Origins of Rural Revolution: Elites and the Masses in Hunan Province, China, 1911–1927*. Pp. 380. Berkeley: University of California Press, 1978. $17.50.

Slowly, the gaps in our understanding of China in the tumultuous period after the 1911 Revolution are being filled. Training his attention on the urban and elite origins of China's rural revolution, Angus McDonald focuses on a single province, Hunan, as a mirror to national events between 1911 and 1927 when the coalition between liberal and radical revolutionary elements collapsed. Considerably more interested in Hunan as a province at the juncture between north and south China than as the birthplace and training ground of Mao Tse-tung, McDonald describes his work as "shamelessly eclectic." Multidisciplinary and eclectic it certainly is, with events in Hunan viewed from a wide variety of perspectives.

Seeing the peasantry "wielded from above rather than welded together from below," McDonald identifies the elite who wielded them as those holding the symbols of power, wealth, or prestige. Power was the goal and the plaything of the warlords; the long chapter on the rise and demise of Hunan governments in this period gives probably as graphic a picture of warlordism as has been produced. Wealth, here as everywhere, simply meant money. Prestige implied education, which drew into the elite a large group of young intellectuals who lacked the other symbols of elitism. Coalition of these three groups brought some successes, especially when a cause such as antiforeignism temporarily glued their interests together. Coalition was fragile, however, as the motivations and goals of the groups involved were mutually destructive, placing severe limitations on whatever party found momentary victory. Urban revolution collapsed in 1926–27 because of the disparate interests of the elite, and coalition of revolutionary elements evaporated.

Shamelessly eclectic, perhaps, this is

a sparkling and important piece of work. What in lesser hands might have become a circumscribed and ordinary monograph on Hunanese politics is instead a vitally interesting, multidimensional study of Hunan as a microcosm of all the currents playing in China at the time. Not the least of McDonald's very considerable talents is an easy, almost joyous, command of the language, which evokes memories of Joseph Levenson. In sum, let's have more of his sort of eclecticism.

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MARINA OTTAWAY and DAVID OTTAWAY. *Ethiopia: Empire in Revolution.* Pp. vi, 250. New York: Holmes & Meier, 1978. $12.50.

DAVID PARKIN. *The Cultural Definition of Political Response: Lineal Destiny among the Luo.* Pp. xiii, 347. New York: Academic Press, 1978.

These two books present starkly contrasting scenarios regarding social and cultural change in contemporary African society. On the one hand, Parkin's book emphasizes the cultural *continuity* of a single ethnic group, the Luo, under conditions of urban migration and wage labor in a stable, emergent-capitalist nation, Kenya. On the other hand, the Ottaways' book emphasizes the historical *discontinuity* of the entire Ethiopian nation under recent conditions of revolution and socialist transformation. While contrasted by level (ethnic group versus nation), discipline (anthropological versus historical), and subject (stable Kenya versus revolutionary Ethiopia) of investigation, both studies persistently pose a common theoretical query: to what extent do cultural factors influence processes of historical change and social transformation?

Parkin's valuable study is a detailed case of urban social and ethnic institutions in East Africa. He argues that Luo culture, derived from the rural agrarian milieu, provides the definitional framework for appropriate responses to novel social, political, and economic settings, among his sample of migrant wage-laborers in Nairobi. Contrary to those who hold that African institutions apparently adapted to the rural condition will rapidly fall away in the urban-industrial setting, Parkin maintains that key Luo institutions both functionally adapt to the urban setting and culturally maintain their internal logically consistent relations to each other, thus providing an important line of continuity in change. In brief, he suggests that institutions of the segmentary lineage organization, polygyny and bridewealth mutually imply each other, and this "implicational" meaning represents the continuity of culture despite changing functions. Polygyny, for instance, has been adapted to conditions of urban wage labor, for it makes possible the simultaneous maintenance of the nuclear family in the urban area and the holding of family plots in the rural area, with co-wives and children rotating between the two family households. At the same time, polygyny is logically linked to the lineage system, as the primary means of serving agnatic demands to reproduce the line, and to the bridewealth system, by asserting the value of brides and securing rights over children.

Justifying his focus on a single ethnic group, Parkin argues that there exists at present a primacy of ethnic over class orientation, that differences of language, custom, region, and life-style "constitute more immediately communicable idioms of competition and conflict than those of "class" or socio-economic status" (p. 6). This conclusion is in part an entailment of his thesis of cultural continuity, for interethnic congress, necessary for occupational or class consciousness, is inhibited by the noncongruence of various institutional structures. In contrasting the Luo and Kikuyu throughout the study, Parkin shows how ethnic separation, including a high degree of Luo endogamy, is produced by their contrasting norms of sociability, kinship obligations, bridewealth payments, and language. (Parkin neglects,

however, to recount the most salient symbol of these institutional differences between the Luo and Kikuyu, that of initiation practice, which lends a powerful focus to more general cultural contrasts). As part of a compelling discussion of the factors of Luo urban ethnicity, Parkin discusses the role of multileveled associations, structured by the segmentary lineage order, the prominence of soccer teams and matches, and national level economic and political competition, including the rise and fall of Oginga Odinga as a national and Luo leader, and the assassination of Tom Mboya.

For the Western audience long accustomed to the sketchy reporting of African events from distant capitals, the Ottaway's study of the ongoing Ethiopian revolution will be quite welcome, as it makes accessible events and personalities which have long been obscured. The book presents the historical sequence of events from the beginning of 1974, when the feudal empire of Emperor Haile Selassie began to crumble, through the revolutionary upheaval shakily guided by a provisional military committee called the *Derg*, to the expulsion of the authors along with all other Western journalists in early 1977. Unlike many African nations, Ethiopia had evolved well-defined pre-capitalist social classes, involving semi-autonomous landlords and tenant farmers of several great ethnic groupings, within a loose feudal empire dominated by the Amharic dynasty of Haile Selassie. Modern classes had begun to emerge in modern sectors of agriculture and industry, including as well a small entrepreneurial bourgeoisie and a small educated elite. The Ottaways suggest that while each social class, old and new, had "an unspoken common interest in the demise of Haile Selassie" (15), they were too weak and fragmented to assume a dominant revolutionary role (p. 27). Against the view that the military *Derg* had undermined a genuine popular revolution by crushing the general civilian strikes of early 1974 and progressing with the "creeping coup" which only gradually undermined the feudal order each striking class were reformist in nature, and the military played an indispensable role in advancing the revolution. But while "the *Derg* felt it had an historic mission to carry out and little time to do it" (p. 128), the civilian sector played a key role as well, for "civilians radicalized the military, and the military radicalized the civilians" (p. 10).

In perhaps the most radical and accelerated process of socialization in history, the *Derg* nationalized all banks, insurance companies, and major industries, abolished *all* private holdings of rural land, and nationalized all urban land and urban buildings not actually occupied by their owners! The economic and political order of Ethiopia was decisively altered, as power devolved to peasant committees in rural areas, and neighborhood committees in urban centers. Only in the south, where Amhara tended to be landlords and Galla to be peasant farmers, did class and ethnic factors tend to coincide, and in general the Ottaways maintain that ethnic and class conflicts were independent. Ironically, the revolutionary weakening of the Amhara empire exacerbated ethnic tensions, bringing about or strengthening nationalist movements (for example, the Eritrean and Western Somali Liberation movements), and in the case of the Amhara actually strengthened landlord-tenant relationships because of the ethnic threat.

The *Derg* itself was of complex ethnic class composition, though a substantial Galla contingent existed, making the position of the *Derg* on the right of nationalities to self-determination comprehensible. However, the Ottaways strongly assert that the crisscrossing of ethnic and class ties mitigated tendencies of either to represent a dominant force in the revolution, making the role of the military *Derg* all the more vital, as well as all the more viable, due to the absence of sustained and broad-based political opposition.

In the case of the Luo, Parkin allows that autonomous political factors provide the conditions for internal cultural change. But he perceives that contrasts between Luo and Kikuyu institutions

possibilities already present *within* Luo culture, the anticipated potentialities of the future. His emphasis on "cultural definition" does not, then, exclude the dynamic factors of external influence, but provides a framework for interpreting their consequences. There is just a hint in this study of an emergent *super*-ethnic cultural framework in Nairobi, incorporating contrasting ethnic cultures into a meaningful pattern of multiple possibilities. Similarly, the sequence of historical events composing the Ethiopian revolution appears to emerge from a dynamic external to cultural influence. However, the forces of frustration and conflict of class and ethnicity were shaped through the overarching feudal culture of the Ethiopian empire.

The Ottaways skillfully suggest that the political culture of Ethiopia, characterized by factionalism, intransigence, and an "incapacity to compromise and cooperate" (p. 99), helps to explain the fractious splintering of civilian opposition groups, as well as the bloody factionalism within the *Derg* itself. Yet, together with those byzantine qualities long associated with Amhara political life are those thought to characterize the Galla peoples, of individual autonomy, equalitarianism, and collectivity. Perhaps one may detect the expression of those opposing cultural forces, associated with Amhara and Galla characters, in the revolutionary processes out of which may dialectically emerge an Ethiopian rather than a series of ethnic cultures.

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JOHN E. PETERSON. *Oman in the Twentieth Century*. Pp. 286. New York: Barnes & Noble, 1978. $23.50.

ROBERT W. STOOKEY. *Yemen: The Politics of the Yemen Arab Republic*. Pp. 322. Boulder, CO: Westview Press, 1978. $20.00.

Academic preoccupation with countries involved in the Arab-Israeli conflict has meant a paucity of attention These two books are to be commended for seeking to fill this lacuna for two of the more neglected countries, the Yemen Arab Republic and the Sultanate of Oman.

The books have similar aims, although Peterson is more explicit than Stookey in realizing the objective. Both seek to demonstrate how the past has helped shape present societies and their politics. The histories in the second half of the twentieth century are similar and have led to similar outcomes. The revolution of 1962 in Yemen, followed by eight years of civil war, ended in compromise between Republicans and Royalists; in Oman, the coup d'état of 1970 replaced the antediluvian Sulṭān Sa'īd bin Taymūr with his more progressive son Qābūs bin Sa'īd. The revolution in Yemen and the coup in Oman ended the historical isolation of both countries and moved them toward economic development.

Stookey and Peterson argue that for Yemen and Oman there has been continuity as well as change. For example, neither country has achieved national integration, although for different reasons. The tribal chiefs in northern Yemen retain considerable authority; in Oman the power of the Sultan and the ruling family sustains traditional authority while Marxist-oriented opposition in the Dhufar region has hindered the path to modernization.

Peterson is more successful than Stookey in relating past to present. Peterson traces the development, from the mid-1800s until after the 1970 coup, of four continuing subjects in Oman politics: (1) the role of the Sultan and the ruling family; (2) the development of administration; (3) the influence of tribal politics; (4) the impact of external forces. After examining various challenges to the sultanate, Peterson systematically assesses the impact of the post-1970 era on his four subjects, concluding that change generally has confirmed earlier identifiable trends. The conclusion is too short, but the assessment of continuity is deliberate.

Unfortunately, Stookey's analysis is more unbalanced than Peterson's. Despite the promise of the title, the book

three-quarters of the book is devoted to a history which begins with the ancient states of Ma'īn and Saba before the Christian era. The relevance of the wealthy historical detail to current political and social patterns in Yemen is too often left to the reader to discern. Moreover, Stookey tries to impose models of political change developed in American social science in the 1950s and 1960s on communities in South Arabia beginning in the sixth century B.C. Compared to his considerable achievement in descriptive history, the social science is ineffective. Historical minutiae dominate the book at the expense of a more substantial treatment needed in at least two areas: the Yemen Civil War, which was a major factor in Arab disunity in the 1960s, and the conflict between North Yemen and South Yemen which constitutes a current locus of inter-Arab rivalry.

With such treatment we might have more appreciation for contemporary Yemen. We might also have understood Yemen's place in the Middle East. Stookey declares in his preface that "there are sound reasons for American concern with Yemen and its role in the world community." Although he lists reasons, including Yemen's strategic location on the Bāb al-Mandab Strait, he never discusses them adequately.

Neither Stookey nor Peterson explores in detail the major themes of change in Yemen and Oman in the twentieth century—economic development and the end of isolation. Indeed, none of the six maps Peterson offers, for example, locates Oman in the Middle East region. Both Oman and Yemen remain in these books largely without the contemporary strategic importance that may attract readers. The reader will find, instead, good descriptive histories, not contemporary analyses, of two neglected but significant countries in world politics.

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MARIO RODRÍGUEZ. *The Cádiz Experiment in Central America, 1808–1826.* Pp. 327. Berkeley: University of California Press, 1978. $10.00

In this scholarly volume the author ha examined the influence in Centr America of the Spanish experiment i constitutional government produced b the Spanish Cortes of 1810 and th Constitution of 1812. This "Cadiz Ex periment" included a significant degre of decentralization and local autonomy With illuminating detail drawn fron documents, Professor Rodríguez follow this influence through the two periods ir which the Constitution was in effec (1812–1814 and 1820–1823), and througl the first two years of the existence of the Central American Federation (1824-1826). His work is a welcome addition to the meager literature that modifies the stereotypic view of this constitution as French, British, and United States in inspiration, and of Ferdinand VII as thoroughly reactionary.

Some scholars may judge that the author goes too far in this emphasis on the influence of the "Cádiz Experiment," and the subject certainly deserves more study. But Professor Rodríguez argues persuasively that the "Experiment" was a mixture of Liberalism—a term to which it gave origin in the Hispanic world, and to which Central Americans made significant contributions in the Cortes—and of traditional Spanish ideas of monarchy and of Church-state relations. "The Constitution of 1812," he writes (p. 94), was hardly the work of fuzzy-minded doctrinaires, Frenchified or otherwise. On the contrary, it was the effort of pragmatists who were determined to create a modern Spanish nation while taking into account its traditions and experiences."

Central Americans also contributed in the Cortes of 1810 to the debate on the so-called "American question," that is the right of the Americas (and the Philippines) to representation in the national Cortes equal to that of the Peninsula. During the second constitutional period, the Ayuntamiento of Guatemala instructed its representative in Madrid to demand American rights that already presaged the alienation that led to independence (p. 144).

The author presents in detail the influence of the "Experiment" upon the Empire of Iturbide in Mexico

form and spirit," he writes (p. 169), "the Mexican connection represented a continuation of the original Cádiz experiment. . . . Mexican and Central American leaders often referred back to the laws and precedents of the first constitutional period." In the same connection, he writes that General Vicente Filísola, who played a critical role in Central American independence from Iturbide's Mexico, showed remarkable understanding of the Constitution of 1812 and its application to Central America.

Careful historian that he is, Professor Rodríguez has avoided broad generalizations. But students of the current problems of the regional organizations in the area will nevertheless find much useful background for understanding these problems, and much food for thought about them.

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HARRY R. STRACK. *Sanctions: The Case of Rhodesia*. Pp. xvii, 296. Syracuse: Syracuse University Press, 1978. $15.00.

This examination of the effectiveness of sanctions against Rhodesia as a means of inducing a "return to legality" by the Rhodesian government covers the twelve years between the 1965 Rhodesian unilateral declaration of independence (UDI), which triggered British sanctions, and early 1978. It was a period of enormous change both within Rhodesia and in Rhodesia's relations with the external world. British measures were followed a year later by UN-sponsored sanctions in an attempt to isolate Rhodesia from all international contacts except for communication and humanitarian requirements. Either in terms of inducing a retreat from UDI or in terms of isolating Rhodesia, sanctions must be judged a failure, both despite and because of the changes that accompanied the punitive measures.

Until 1975, however, Rhodesia appeared to prosper. In real terms output grew at an average of nearly 6.5 percent sparked by an investment surge capital formation tripled. Foreign tourists visiting the country increased in numbers and, after an initial loss, European immigration began again to increase.

Analysis of the economic impact of sanctions is hampered by the lack of data, especially after 1972, but the general pattern is clear. Rhodesia prospered while world markets were expanding, but at considerable cost. By 1972, despite booming raw material prices Rhodesia had to export 20 percent more in volume to acquire the same amount of imports as in 1964. National output became more diversified but at high cost for a protected market. Sanctions were evaded but at the cost of circuitous transport routes and payment procedures. The benefits of sanctions seemed to accrue primarily to South Africa intermediaries.

The year 1975 was calamitous. The intensification of guerilla warfare, the withdrawal of the South African police, the collapse of world commodity markets were followed by the closure of the Mozambique border in 1976. Sanctions-impacted terms of trade were further savaged by escalating oil and other import prices.

Although the author disclaims economic impact as the main focus of his study, more than half of the book is devoted to the economic effects of sanctions. The author's alleged focus on "intersocietal intercourse"—how Rhodesia was able to maintain or extend its international relationships—is strongly concentrated on white Rhodesia. The reader is thus left to wonder what impact sanctions have had on black Rhodesia, either in terms of disclaimed economic impact or in terms of the stated concern with intersocietal intercourse. One suspects that the cost of sanctions to Rhodesia was born primarily by the black community in lower real income and perhaps isolation, but the subject is ignored. The book thus is an interesting chronicle of the kinds of costs and distortions that are created by trade and financial controls which are only half-heartedly enforced.

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HORACE B. DAVIS, *Toward A Marxist Theory of Nationalism*. Pp. 294. New York: Monthly Review Press, 1978. $17.50.

The subject of this book is somewhat difficult to categorize. As the title suggests, the author does not claim to have written a theory of nationalism but rather something that points in that direction. What he has produced in fact is a series of essays that deal with both nationalism as a phenomenon and the author's views on the writings of others on nationalism. Whether the analysis can reasonably be described as "Marxist" is questionable. To be sure, it contains a considerable amount of what could be called "late Twentieth Century Marxist rhetoric," with frequent references to "the Establishment," "professional anti-Sovieteers," and similar terminology. At the same time, Davis is quite generous in his analysis of the writings of some of the non-Marxist students of nationalism that he mentions. And, more to the point, his own treatment of the subject is astonishingly deficient in discussing the views of Marx himself. Aside from one or two references to *The Communist Manifesto*, there is nothing. It is as if the author had never read, for instance, *The German Ideology*.

The author's writing is often blunt and to the point. This makes for interesting reading, as numerous writers on nationalism—including some in the Marxist camp—are considered, criticized, and dismissed. Thus, for instance, in a chapter on "The Theory of Nationalism," Stalin is depicted as basically not a Marxist, and his 1913 essay, "Marxism and the National Question," is described as "inadequate," "not first-rate," and divorced from reality. Trotsky's internationalism is "phony." Luxemburg's position is "overstated." The hero of the piece, if there is one, is Lenin, but even he does not come off unscathed: for example, Luxemburg's idea that a right of self-determination is unsocialist is favored over Lenin's insistence on such a right, which described by the author as "rath‹ meaningless." On all of these matte› and others the author's provocativ views tantalize the reader. But the trea ment of many subjects in a brief spac (the chapter in question is 33 page long) is necessarily superficial, and th result, for this reader at least, was series of disappointments because inter esting issues were inadequately treated.

Space restrictions prevent a mor‹ detailed review of the book's contents There are interesting chapters on th‹ Soviet Union, Yugoslavia, China, Latir America, and Africa, as well as ‹ concluding chapter. The author provide‹ a good discussion of recent Soviet nationality policy and does not hesitate to point out shortcomings and inconsistencies. There are a few errors (Demorchyan for Demirchyan, and the statement that many of those executed during the purges for nationalist deviations had "Russian-appearing names"—clearly what was largely involved here was *russianized* names), and it would have been preferable in this late 1978 publication to make references to the 1977 Constitution rather than the 1936 document. But these are minor problems in an overall good chapter.

Davis emphasizes more than once in his book that presently existing socialist states essentially follow their national interests and can be neither truly internationalist nor truly Marxist. The "proletarian internationalism" of the Soviet Union and China, he says, is "phony." It is somewhat surprizing, therefore, that in the last chapter Davis takes a rather benign view of some forms of nationalism: class consciousness on an international scale, he says, is not realistic to expect; but nationalism that amounts to a resistance to exploitation is healthy; and nationalist movements that are "socialist-oriented" should be encouraged. It is clear that these remarks are directed mainly at developing countries (some of Davis' most sympathetic passages deal with nationalism in Africa), but they bear only a tenuous relationship at best to the more than 200 pages of text that precede them. And, as suggested,

the connection between the author's analysis and the Marxism he posits as the basis for his approach is not at all obvious. Except for the rhetorical flourishes, most of the positions he takes would not seem out of place among the views of many Western Social Democrats of the present day.

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WILLIAM E. GRIFFITH. *The Ostpolitik of the Federal Republic of Germany.* Pp. vii, 325. Cambridge, MA: MIT Press, 1978. $25.00.

The question of what the *Ostpolitik* of West Germany should be has not only divided the political parties of the country, it has created deep divisions within them. Lifelong, liberal adherents of the Social Democrat Party, like the late Wenzel Jaksch, have joined with conservative Christian Democrats, like Freiherr von Guttenberg, in bitterly opposing what they regarded as Willy Brandt's appeasement of the Soviet Union and the brutal East German government; surrendering as they saw it, vital German and human interests for the promises of a rapprochement that would at best be short-lived and at worst a national disaster. The proponents of the post-Adenauer *Ostpolitik* on the other hand, have argued that no other sensible course was open to West Germany; the adamant rejection of the legitimacy of the East German state and its domination by the Soviet Union had become counterproductive and a way had to be found to modify the rigors imposed by the wall separating German from German.

In *The Ostpolitik of the Federal Republic of Germany*, William Griffith provides a competent account of the development of the Eastern policy with a short survey of the historical background and a well-balanced analysis of the courses pursued by Adenauer, Willy Brandt, and their successors. He has skillfully reduced the manifold problems to their essential structures, showing how few, in reality, the choices have been for a democratic government representing, as it and the West claimed it did, a divided nation, forced to adapt its policies to those of its allies, as well as to those of the hostile and often intransigent Soviet Union and the East bloc.

Mr. Griffith cooly dissects the controversial decisions that have aroused strong emotions not only among West Germans but also among many Western observers who view the concessions demanded by detente as unduly one-sided. The author, always the detached clinician, has peopled his book with entities like "flexible leftists," "flexible Atlanticists," "inflexible conservatives," and the like, while to the leadership of the East and West forces he routinely ascribes maximum and minimum aims which might surprise some of those whose positions he defines.

Since the book is likely to be read by a limited number of specialists, the highly inflated price of $25 for 233 pages of text, plus notes and index but without tables or illustrations, may be accounted for. But it is a pity the able technicians of the MIT press could not have devised a less expensive format.

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VALENTINE HERMAN and JULIET LODGE. *The European Parliament and the European Community.* Pp. ix, 199. New York: ST. MARTIN'S PRESS, 1978. $19.95.

The European Parliament has been the subject of countless studies since its inception as the Assembly of the European Coal and Steel Community in 1951. What justifies yet another re-examination of this body? The authors find justification in the September 20, 1976 signing, in Brussels, of the act to finally institute the election of the European Parliament by direct universal suffrage.

Accordingly, the book sets out to provide a comprehensive examination of what direct elections will and will not mean for the European Community in

ıeral and for the European Parliament ·cifically. The authors establish their ĸ as clarifying "aspects of the debate ›ut the nature and extension of the ropean Parliament's powers, their re- onship to direct elections, problems sing out of these, and the position of Parliament in the Community's titutional balance."

:he result is a two part book which gely synthesizes previous writings o a presentation which includes some w insights. Part One raises the issue of ıether the European Parliament is a arliament" and then examines the onstitutional" powers and actual func- ns of the European Parliament particu- ly concerning its relationship to the ıer Community organs. Part Two ›vides an excellent examination of ne very salient issues concerning the ıropean Parliament's functions raised the prospect of direct elections sues concerning legitimacy, citizens, ·dia, and the dual mandate) and ncludes with a discussion of the case a bicameral parliament. The reader ·ls that the authors' insights flow from ·ir approach as students of parliaments :her than students of the Community. this sense, the real value of the book is fresh look from a different perspective.

The book, however, says little that will new to the professional. Its greatest ılue will be to those who know little ›out the European Community and ould profit from an introduction to the uropean Parliament presented with .e familiar terminology and concepts ;ed to deal with national parliaments. he strength of the book is also a major art of its weakness. Attempts to under- and the European Community based n assuming the applicability of nation- tate terminology can only result in the iminishing, if not the total loss, of that vhich is the uniqueness of the Commu- ity. Thus the reader must be careful to emember that the Community is not a ation-state and its organs are not nation- tate organs.

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DAVID W. MILLER. *Queen's Rebels: Ulster Loyalism in Historical Perspective*. Pp. xiii, 194. New York: Barnes & Noble, 1979. $22.00.

The sub-title of this book, "Ulster Loyalism in Historical Perspective," is not only well chosen it is also convincingly executed. In this closely reasoned analysis and well documented examination of the "Northern Ireland Problem," Professor Miller does not search for practical solutions but rather endeavors to understand this "puzzle" through study of its history.

In general terms his answer comes clear and strong at the very beginning—in the fortunes of the British and the Scottish plantations in Ulster in the first half of the seventeenth century. English civil authority broke down completely in the Irish Uprising of 1641 and was all but forgotten during the English Civil War which followed. Charles I remained recognized as king, but the contractual ties between the Ulster landlords and the English crown lost significance, and public order, such as it was, rested in local hands. The model of a return to "a state of nature" in political and social terms, in the ever recurring crises, was set for the future.

As time passed circumstances, of course, changed. The Revolution of 1688 brought William III's acceptance of Presbyterianism in Ulster but transferred control over Irish affairs from crown to Parliament. Ulster Protestants now sought, as a condition for acknowledging parliamentary authority, a contractual relation similar to their earlier association with the crown.

With the Act of Union (1801) joining Britain and Ireland in the United Kingdom, and with Catholic Emancipation soon to follow, any close integration of Protestant Ulster with the rest of Ireland depended on Ulster's acceptance of the 19th century concept of "nationality" as the basis for "self-determination." But Ulster Protestantism developed a limited "nationalism" of its own and became Ulster Unionism through fear of Home Rule for an Ireland united under Catholic control.

In Ulster itself the "Catholic problem" grew apace—by the twentieth century one third of its people were Catholics. Unionism survived the crisis of 1912 and Ulster escaped inclusion in the Irish Free State created in 1921. But now, in Ulster, to religious division was added political—the Catholics being for the most part Irish Nationalists. Growing strength, economically and politically, of the Catholic minority led to a condition close to civil war by the 1960s; in 1972 the government of Northern Ireland was replaced by direct rule from Westminster. But Ulster refused to accept such authority, though insisting on its continuing loyalty to the crown. Once again Ulster has all but reverted to a state of nature.

Miller's style and language are perhaps often more complex than is necessary. The result sometimes is rather slow going, but his thoughtful analysis will fully repay careful examination.

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R. NEAL TANNAHILL. *The Communist Parties of Western Europe: A Comparative Study*. Pp. xvi, 229. Westport, CT: Greenwood Press, 1978. $18.95.

MARC RAKOVSKI. *Towards an East European Marxism*. Pp. 140. New York: St. Martin's Press, 1978. $15.95.

In spite of the stubborn insistence to the contrary by a dwindling minority of the reactionary and the uninformed, the fact that the international Communist movement is no longer a monolith has become an increasingly obvious feature of contemporary world politics. The reality of this fact is amply demonstrated in these two volumes which underscore the marked differences prevailing not only among the Communist parties in Western and Eastern Europe but even within the Marxist movements in each of these regions individually. These variations, moreover, are further accentuated by the fact that the authors of the two works in question—R. Neal Tannahill and Marc Rakovski—have approached their subjects from the two quite distinct perspectives, respectively, of an American political scientist and a practicing East European Marxist.

That the two books reflect the broad diversity of present World communism, however, is merely incidental to their main objectives, which, in fact, are far from identical. For its part, on the one hand, Tannahill's study, *The Communist Parties of Western Europe*, is essentially descriptive. Thus, in eleven lucidly organized chapters, the author first outlines the salient physical and programmatic characteristics of some eighteen Western European Communist organizations including virtually all of the official CPs of continental Western Europe as well as those of Great Britain and Iceland. Following this discussion, which emphasizes precisely the great diversity of Western Marxism, the author constructs a model Western European CP sketching in detail the various factors which may impact on its policies both individually and in dynamic interaction with its political, social, and economic environment. Finally, Tannahill hazards a number of predictions about the political future of Western European communism. Of these prognostications, the chief are that the future participation of Western Europe's CPs in active government will at best be limited by parliamentary constraints and will consist of policies more likely to be radically reformist than dogmatically revolutionary.

By contrast with Tannahill's essentially detached analysis, Rakovski's *Towards an East European Marxism* is an extended theoretical assay which passionately attacks the inadequacy of present East European Marxist thought and calls, in effect, for the formulation of a revised Marxism based on "a completely new theoretical foundation" applicable to the peculiar conditions obtaining in contemporary Eastern Europe. According to Rakovski, whose views are clearly at odds with those of official East European spokesmen, the current "Soviet-type societies" of Eastern Europe cannot properly be understood in traditional Marxian terminology as structures

either socialist, transitional, or state capitalist. In fact, he argues, the kind of formation that has gained the ascendancy in Eastern Europe is "a class society *sui generis*" whose proper interpretation requires "the reconsideration of the whole traditional structure of historical materialism." Only on the basis of such a major revision, concludes Rakovski, can Marxism successfully be revitalized to deal effectively with the unique class societies of Eastern Europe.

It would be inaccurate to suggest that either of the books under review is definitive or flawless. For its part, Tannahill's study, despite copious notes and an impressive array of statistical appendices, is based heavily on secondary sources and its conclusions, however well informed, are still only educated guesswork. By the same token, Rakovski's essay, though well argued, is ultimately founded on a number of theoretical assertions—for example, that the "Soviet-type societies" of Eastern Europe are not state capitalist—which remain, after all, debatable. These strictures notwithstanding, the studies of Tannahill and Rakovski make interesting reading and offer conclusions which students of international communism, especially those in policymaking positions, would do well to ponder.

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JOHN E. TURNER. *Labour's Doorstep Politics in London*. Pp. xiv, 396. Minneapolis, MN: University of Minnesota Press, 1978. $19.50.

In the early 1960s Professor John E. Turner of the University of Minnesota spent a season studying the Labour Party organization in three London constituencies. He examined the local organizations in Bermondsey, as safe a Labour seat as exists; in Fulham, which was and is marginal; and in South Kensington, where a Labour agitator is about as welcome as rabies. The result, in this impressive but uneven study, is a profile of three urban villages, each of which has a peculiar character which may however reflect, to a limited extent, wider patterns.

Who gets involved in politics at this level? Professor Turner believes that in part the very nature of the constituency determines what kind of person will volunteer to perform the thankless but virtually necessary tasks of organization, propaganda, ministering to the voters, and so on. Each constituency studied has unique problems and challenges, and a Labour worker who performs admirably in Bermondsey might well prove a disaster in Fulham. The party "machine," in short, requires a variety of cogs and gears.

How do the voters respond to local Party officials? Professor Turner points out the well-known fact that the distance between governed and governors, *especially in Labour constituencies*, is less in Great Britain than it is in the United States. Labour workers are normally much more available to the voter and are ready to intervene in practical ways in affairs of the locality. (Whether this same folksy togetherness prevails among the Tories is not clear.)

One of the more interesting problems which Professor Turner investigates is that of the level of ideological commitment on the part of Labour activists. Although contemporary scholarship (say, since 1955) has been pointing in this direction for some time, it comes as at least a minor surprise (and constitutes one of Turner's real contributions) to find the "ideological enthusiasts" in the minority in all three constituencies (only eleven percent in Bermondsey). It may well be the case that future researchers will pinpoint the "end of ideology" in Great Britain around the time of Professor Turner's study; Gaitskell's death in 1963 may have been a greater turning-point than anyone realized.

As one would expect from a scholar of Professor Turner's eminence, this book is a significant contribution to our knowledge of the grass roots functioning of the British political system. It is full of skillful analysis and crucial insights and it contains so much information that it practically constitutes an archive. It does not detract from Professor Turner's

achievement to state the reviewer's opinion that the book would have profited from more rigorous editing; the elimination of some material (especially in the first two chapters) of interest only to specialists would have ensured a wider readership.

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UNITED STATES

BARRY M. BLECHMAN and STEPHEN S. KAPLAN. *Force Without War: U.S. Armed Forces as a Political Instrument.* Pp. xviii, 584. Washington, DC: The Brookings Institution, 1978. $19.95. Paperbound $8.95.

This excellent study is an analysis of the United States' use of its armed forces to achieve political objectives, and an evaluation of how effective this use has been. On the basis of a stringent definition, 215 incidents— ranging from a naval vessel visiting a friendly port through forcefully establishing a military presence—are identified in which the United States utilized its armed forces for political objectives, including both reassuring allies and warning opponents, between 1 January 1946 and 31 December 1975. A representative sample of 15 percent (33) of these were subjected to aggregate analyses. The result of these analyses are presented in four chapters of the book. Also included are five chapters written by specialists that present five, carefully selected, paired case studies. David K. Hall analyzes U.S. actions concerning the Laotian War of 1962 and the Indo-Pakistani War of 1971; William B. Quandt, the crises of Lebanon in 1958 and in Jordan in 1970; Jerome N. Slater, the episodes involving the Dominican Republic in 1961 and 1966; Robert M. Slusser, the Berlin Crises of 1958–1959 and 1961; and Philip Windsor, Soviet menaces toward Yugoslavia in 1951 and Czechoslovakia in 1968. Belchman and Kaplan synthesize the results of the aggregate analyses and the case studies in a thoughtful, balanced, and policy-relevant concluding chapter.

The study has many strengths. It builds on the existing literature, particularly *Deterrence in American Policy* by Alexander L. George and Richard Smoke, carefully noting points of agreement and disagreement. The aggregate analyses and the case studies nicely complement each other, the former providing a broad structure and the latter, contextual detail. A high level of intellectual rigor is maintained throughout the book. Precise definitions are used, logical reasoning is stressed, and conclusions are firmly based on the evidence. The study takes the political objectives of U.S. policymakers as a given without endorsing or rejecting them; it is a carefully circumscribed, technical, and professional analysis. The presentation is crisp and clear and happily free of jargon.

The study concludes that in the short run the use of armed force has had a high probability of contributing to achieving U.S. objectives. In the longer run (3 years later), this probability is greatly diminished. The discrete use of force has had little impact on broad economics, political and social trends. Delaying changes, however, has been useful to the United States in allowing opportunities for structuring the changes and for rallying domestic support to accept them. Not surprizingly the use of force is shown to be more effective in reinforcing the behavior of allies, neutrals, and opponents than in altering their behavior. These conclusions are just a small sample of the richness of the book. It is must reading for those interested in contemporary foreign and military policy.

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LOIS A. CRAIG et al. *The Federal Presence: Architecture, Politics and Symbols in U.S. Government Building.* Pp. 580. Cambridge, MA: MIT Press, 1978. $37.50.

In 1972 the National Endowment for the Arts began a survey of the quality of federal government architecture. It probably was not an easy assignment. Before

the researchers could offer value judgements, they had to select their samples from massive amounts of federal real estate. By 1974, the national government owned throughout the globe some $83 billion worth of property and over $39 billion of additional holdings in utility systems, roads, dams, bridges, and harbor and port facilities. More than 1,250 Empire State Buildings could fit into the floor space available in the approximately 400,000 buildings maintained by the United States Government.

After six years of investigation the Federal Architecture Project has produced an impressive work of considerable interest to architects and engineers, photographers and artists, historians and urban planners, and public administrators and political scientists. Despite its stated intention of evaluating architectural quality, the main focus of this study is on the relationship between federal construction policies and social, political, and economic trends in United States history. The authors show that styles have not merely followed function or technological capabilities, but they have also reflected ideological concerns. Jefferson's choice of the classical mode underscored his commitment to the democratic virtues of republican Rome, and the completion of the Capitol Dome in 1866, after four years of civil strife, offered a vivid symbol of renascent national unity under one constitutional republic. Indeed, from westward expansion through the New Deal, World War II, and the Cold War, increasing government centralization in Washington could be amply measured in the extension of public works erected and decorated by the federal government.

The Federal Presence relates its story chronologically displaying approximately 700 pictures interspersed with a concise narrative and lively quotations from a variety of sources. The photographs are well chosen to showcase a diversity of designs adorning hospitals, post offices, customhouses, monuments, lighthouses, prisons, missile bases, and detention camps; in addition, the illustrations spotlight the human beings attracted to or caught inside of these edifices. Photographic essays of the District of Columbia are placed throughout the book, providing a thematic link between each chapter. A useful bibliography directs the interested reader to a body of literature drawn from an assortment of academic disciplines. However, there are some minor flaws. The juxtaposition of several items of text and graphics on one page occasionally evokes a cluttered effect. The prints are all in black and white, whereas some color presentations would have added an attractive contrast. Although the narrative is generally informative, there are several factual errors: John Quincy Adams was not President in 1807 (p. 48); Hawaii was annexed in 1898, not in 1900 (p. 210); and Neil Armstrong walked on the Moon in 1969, rather than in 1970 (p. 457).

This volume does not belong with the coffee table, pictorial Christmas gift books, meant more for display than for enlightenment. It is a handsome publication depicting important aspects of the American character from the creation of the Republic through the downfall of Watergate. "Each time we as a people build through our government," the authors assert, "we are saying something about ourselves, something about the relationship of government to citizens." (p. 543) It is an admonition well taken and a message well presented.

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WILLIAM J. CROTTY. *Decision for the Democrats: Reforming the Party Structure*. Pp. viii, 318. Baltimore: Johns Hopkins University Press, 1979. $16.50.

Following its 1968 convention debacle, the Democratic party launched a sweeping program of internal reform. William J. Crotty contends that the "transformation of Democratic party procedures" was "without precedent in the history of the American two-party experience." Within a few years a "new political party was engineered."

The essence of the change was that the central task of the national Democratic party, selecting its presidential nomi-

was reformed to permit (and beyond that to encourage) meaningful participation by the party's rank-and-file in the selection process. Hubert Humphrey's nomination in 1968 rested upon the support of the party professionals who controlled the arcane and often arbitrary selection procedures then in use. Four years later George McGovern became the Democratic standardbearer under a thoroughly rewritten set of procedures that stressed representing all Democrats who chose to become active, and severely curbed the power of the professionals. As Crotty states, "The party had been opened."

The leading agent of reform was the Commission on Party Structure and Delegate Selection (the McGovern-Fraser Commission). Crotty, who served as a consultant to the Commission, details its operations, explains the guidelines it adopted, and examines the crucial process of implementing the guidelines. He is not stingy in his praise for the Commission, concluding that the commissioners and their staff acted with moderation and restraint in formulating and implementing the guidelines. While recognizing the necessity of reform they attempted to—and generally succeeded in—striking a conciliatory pose in their dealings with understandably suspicious state party officials. There is also a thorough but somewhat less complimentary treatment of the Commission on Rules (the O'Hara Commission) and briefer discussions of the follow-up Mikulski, Sanford, and Winograd Commission.

Decision for the Democrats is a useful though limited book. The author's first-hand experience in the reform process and his extensive use of party documents make his work an indispensable source for anyone interested in its subject. Where Crotty disappoints is in his failure to pursue questions raised by his narrative. For example, he notes that the McGovern-Fraser guidelines in effect encouraged states to establish presidential primaries, but the potentially harmful impact of this development on the party's organizational integrity receives only the briefest mention.

author's failure to evaluate the systemic significance of the reform movement. In his penultimate paragraph Crotty implictly concedes that the reforms he considers will be less significant than they may seem if they fail to reverse the long-term decline of American parties. Since it is at least arguable that the parties' decline is based upon factors beyond their control and therefore cannot be reversed by internal actions, it is possible that the Democrats were not rebuilding their party but were simply redecorating a structure with a hopelessly decayed foundation. This may or may not be the case, but the question is too important to be ducked. Regrettably, Crotty does duck it, and this raises doubts about the substantive import of his findings.

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DAVID DELEON. *The American as Anarchist: Reflections on Indigenous Radicalism.* Pp. xiii, 242. Baltimore: Johns Hopkins University Press, 1978. $14.00.

The absence of a viable, powerful radical tradition in twentieth century America—in striking contrast to other modern industrial societies—has bedevilled American social scientists. The conventional interpretation—attributing this absence to geographic and occupational mobility, unparalleled opportunities, and Lockean liberalism—has recently come under critical review. In *Political Repression in Modern America*, Robert Goldstein attributes this absence to the repressive policies of the modern state. In the book under review, DeLeon takes another tack. To DeLeon, social scientists' exclusive focus on statist radicalism has resulted in a failure to perceive the persistent appeal of a more powerful, indigenous radicalism: anarchism—an anarchism drawing support from distinctively American cultural and economic conditions. These, he posits, are the American Protestant religious heritage, the geographic scope and

and the major social and economic consequences of corporate capitalism.

DeLeon's thesis, however, is not intensively or convincingly developed. As the book's subtitle accurately conveys, DeLeon's study offers "reflections" on the history of American anarchist leaders and movements—more specifically, the ideas of this diverse tradition. In this sense, DeLeon has not attempted a rigorous historical survey of American anarchism and the attendant institutional changes in recent America. DeLeon not only does not consider Goldstein's contentions and documentation—wherein failure is attributed to the coercive and discriminatory role of the state—but he also episodically and oftentime impressionistically traces the historical evolution of American radicalism and the major value and institutional changes transforming American society.

DeLeon perceptively assesses the particularly persistent quality of modern American dissent—whether Populism or Progressivism—as the antipathy toward organized, nonaccountable power. It is questionable whether this dissent can be characterized as anarchistic or is better understood as deriving from a particular constitutional tradition influenced by specific institutional developments and experiences. Moreover, if dissident movements (as varied as Populism, McCarthyism, anti-Nixonism) share in common an antipathy toward unaccountable institutions, they nonetheless differ in appeal and in issues raised; all have had minimal impact. These contextual differences, as well as the irony of persistent dissent but a steady progression toward more concentrated power, compel a more intensive treatment than is provided in this slim, impressionistic volume.

Despite these caveats, DeLeon has written a compelling, provocative, conceptually bold and original study. His monograph highlights the need for further studies of the dissident individualist tradition in modern America.

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MORRIS JANOWITZ. *The Last Half-Century: Societal Change and Politics in America*. Pp. xiii, 557. Chicago: The University of Chicago Press, 1978. $25.00.

This is a ponderous apologia for repression that will probably be respectfully greeted by all of those who solemnly speak of our era of limits, whether they call themselves neo-conservatives, new liberals or "realistic" social democrats. To all of these and more, Dr. Janowitz has provided a survey of the master trends of our culture during the last half-century in a macrosociological study that codifies or synthesizes an enormous mass of existing empirical social science into a coherent (whether or not convincing) interpretation.

The reader will quickly realize that we are threatened by "disintegration," "disruption," "fragmentation," and every species of "the attenuation of social control." Political regimes are portrayed as weak and often ineffective because of the citizens' growing wariness of both parties, popular distrust of government overall, conflicting interest groups, nonvoting, ticket splitting, and the absence of legislative majorities. Beyond this, members of society are bewildered by the growing differentiation within such basic categories as class, race, and sex—life thus becoming so complicated that people cannot easily discover their own "enlightened self-interest and group interest" (p. 21).

Social collapse is everywhere: labor and management often view each other as adversaries; there is a declining faith in such institutions of legitimate coercion as the police and the courts (the latter being suspected of pushing too hard for social equality and gross leniency toward criminals); the welfare state is intensifying social and financial strains; compulsive self-indulgence is pervasive; TV news contributes to "political suspicion, which weakens political legitimacy" (p. 363); and there are increasingly "'permissive' attitudes toward interpersonal relations and deviant behavior" (p. 550), including the invitation of "an

official delegation of homosexuals" to the White House (p. 409). Even the military has been undermined by "the decline of the citizen-soldier" (p. 21), that noble (although forced) tradition of "maintaining and strengthening ideals of citizenship" (p. 547). As Janowitz summarizes all of this as an "objective" and "pragmatic" social scientist: the United States has "a high degree of institutional differentiation which unfortunately has resulted in extensive disarticulation of the component institutional sectors" (p. 557).

Still, this is not *Mein Kampf*. While Janowitz has erected an academic monument to the reactionary 1970s, he appeals to vague nonauthoritarian means to reintegrate the citizenry into a managed and responsible participation in this society, such as "community-based voluntary associations." His solutions to the problems of rampant pluralism are, however, less comprehensive than his detailed catalog of the dangerous anarchism of our age.

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JUERGEN ARTHUR HEISE. *Minimum Disclosure. How the Pentagon Manipulates the News*. Pp. 221. New York: Norton, 1979. $10.95.

Shortly before the turn of the century, certain federal government departments and bureaus began to spend tax money to pay public relations specialists to put out information about their agencies. Those services expanded very rapidly between 1900 and the second World War. In 1979 nearly all of them have been in existence for fifty years or more and have to some extent standardized their procedures. Employees have Civil Service standing and a vested interest in their jobs and procedures. Controversy surrounded them at the beginning, and some of the same controversy continues to surround them. Professor Heise's book discusses these controversies as they relate to the information offices of the Department of Defense and its three constituent services.

Do the information services act as corporate public relations agencies to present a favorable public image of their departments and to stifle critical knowledge? Is it proper to spend tax money for that purpose? Or do they provide information to which the public is entitled in a democracy and which the public might not otherwise gain? Therein, do they serve members of Congress, individual citizens who seek information, the news media, writers of magazine articles and of books, and the motion picture industry? Do they present the facts without doctoring the facts, be they favorable or unfavorable? Are they used to present one side in the jealousy that is present between the Army, the Navy, and the Air Force? Or do they present a biased viewpoint in the internal jealousies and policy and personal disputes that arise?

To find the answers to these and similar questions as they are raised in looking at the office of the Assistant Secretary of Defense for Public Affairs, as well as the separate information services of the three branches of Defense, Professor Heise studied the considerable body of literature that considers these questions, congressional testimony and reports, and publications by the Armed Services, including instruction manuals issued to information officers. He also interviewed newsmen who covered the Pentagon and some of the affected officers.

The book quotes official statements made by Pentagon officers who feel that their work is to provide information regardless of whether or not it improves or derogates the popular image of the armed services. But it finds that in actual practice, Pentagon information is inevitably controlled by officers who are eager for public support, for increased appropriations, and for favorable public image. Therefore, the book finds, the Pentagon does use taxpayers' money through the information services, in spite of statements to the contrary, to build up the services. Derogatory information or information that conflicts with the attitudes of the "military mind" is suppressed or responses are delayed.

The opening chapter uses the My-Lai indicent in Vietnam as an example of the

roblem of military policy regarding the ublication of unfavorable information. 'he concluding chapter presents some ertinent recommendations.

There is little in the book that is really ew, except insofar as it quotes recently ublished sources, interviews or con- gressional testimony, and reports that ave not heretofore been quoted. The ources say some of the same things that earlier published studies or unpublished commentators have said.

F. B. MARBUT

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Florida

GAIL PARADISE KELLY, *From Vietnam to America: A Chronicle of the Vietnamese Immigration to the United States*. Pp. vi, 254. Boulder, CO: Westview Press, 1977, $16.00.

TRAN VAN DON. *Our Endless War: Inside Vietnam*. Pp. vii, 274. San Rafael, CA: Presidio Press, 1978, $12.95.

Like a bad dream, Vietnam will not go away. No matter how hard Americans try to forget, that tiny country and twenty years of failed United States policies there remain forever etched in our collective memories. These two books, distinctive both in focus and perspective, remind us that the tragedy of Vietnam is still very much with us.

Our Endless War is a personal account of the years between 1945 and 1975 as seen by a former South Vietnamese military and political leader, Tran Van Don. The book constitutes part of a growing genre of Vietnamese studies written from the perspective of the "insider"; and like other South Vietnamese officials who once supported French and American occupation, Don now resides in the United States. According to his editors, he currently "coordinates the activities of Vietnamese refugees in their adjustment to American life and in their ongoing support for a free Vietnam."

It would be easy to dismiss this book as simply the self-serving reflections of a once prominent South Vietnamese leader, but that would be a mistake. Certainly much of Don's account is a rationalism of his own conduct and that of some of his associates. But personal histories are always self-serving and they can be instructive to us for that very reason. Besides, Tran Van Don is a complex figure.

Born and educated in France, Don fought with the French against the Viet Mihn and, after 1954, occupied a number of important military posts in the regime of Ngo Dinh Diem, including that of Army commander-in-chief. Yet he was also a major participant in the military coup of 1963 which led to Diem's overthrow and his assassination. Don claims that it was General Duong Van "Big" Minh who ordered Diem and his brother executed. Shortly after Diem's departure, Don and his military colleagues were ousted from power by their fellow officer, General Nguyen Khanh. In a short time, Khanh found himself on the outside, disposed of by the "Young Turks" in the armed forces led by Nguyen Cao Ky and Nguyen Van Thieu; Ky personally flew Khanh out of Saigon dumping him miles from the capital. With the military no longer affording him a career, Don turned to politics, serving in the later 1960s and 1970s in the South Vietnamese general assembly where he worked to build an antiThieu and anticommunist "Popular Front for National Survival." At the final hour, in April 1975, he almost became Premier following Thieu's resignation and flight.

Through all this, Don portrays himself as a militant anticommunist and nationalist; a man of integrity, searching for an independent middle ground between America and communist domination. To the end, he seems to think such an alternative possible. But there is little in his account to suggest that after 1954, when South Vietnam was seized upon by United States policymakers as an integral part of their Cold War struggle against "world communism," that Don's approach stood much of a chance. And it is unlikely that someone like himself, born and educated in France and committed in so many respects to Western values and beliefs, was capable of articulating or leading a noncommunist nationalist

movement. His book reads, in effect, as if it were written by an American or French journalist. Frequently, he refers to the *Pentagon Papers* or Frances Fitzgerald's *Fire in the Lake* as definitive accounts of American and Vietnamese policies and he adds no insight of his own to these studies. Despite his close association with the major political and military leaders in the South, he provides little additional understanding about their lives or their beliefs.

What Don does provide, often unknowingly, is a description of how Vietnamese officials forfeited their self-respect and independence by accepting United States military and political priorities and, consequently, American domination. Down to the last minute, he details the political corruption, petty internal bickerings, and simple stupidity which too frequently characterized South Vietnamese leadership.

It is not a pretty story and it has been reported before but Don gives us an "insiders" documentation. Although he lives in America today and came to respect many Americans in Vietnam, his history constitutes an indictment of United States policy that ranks with that of most Vietnam war critics. Don is an example, finally, of how a thoughtful, intelligent, and often courageous man could lose his political respect and influence by allying with Western powers whose primary interests had nothing to do with the self-determination of the Vietnamese people. Don knows this and in his epilogue he urges other "emerging countries" not to repeat the "costly mistakes" of Vietnam, to "keep themselves nonaligned, supporting each other. . . ."

From Vietnam to America by Gail Kelly, a teacher in the Department of Social Foundations at SUNY, Buffalo, picks up where Don's story ends. Based on governmental and private agency sources and her own field work at the Fort Indian Town Gap refugee camp in Pennsylvania, Kelly "chronicles" the experiences of some 130,000 Vietnamese who, like Don, chose to leave their homeland for the United States. Noting some of the causes for their flight (caused largely by American predictions, later proven false, of a communist "bloodbath"), Kelly analyzes the class background of the immigrants, their life in refugee camps where they were processed, oriented, and "educated," and finally, their relocation. What her study suggests is that most of the mistakes Americans committed in Vietnam were simply repeated again in the United States. Assuming that the Vietnamese who might come to America would be former United States Government and corporate employees, officials were ill-prepared for those refugees whose roots were in the lower classes and who were not already "Americanized." Although many immigrants did have upper and middle class credentials and strong ties to Americans, many others did not, and over sixty percent of all the Vietnamese did not speak any English.

Thus, language difficulties, distinctive cultural values, ambivalent feelings about their own departure, and limited skills complicated Vietnamese adjustment and settlement. Adding to this, however, and despite the presence of many concerned and helpful public and private officials, was American ethnocentrism, bureaucratic ignorance, and political mismanagement. Granting authority to run adult and children's educational programs in the camps to administrators and teachers who not only did not speak Vietnamese but who were totally ignorant of Vietnamese customs and traditions was one example of continued American failure. For many Vietnamese the most difficult challenge they confronted was accepting a lower economic and social class status. It was not unusual, for instance, to find former cabinet ministers, generals, and lawyers assuming jobs as cooks, waiters, and janitors. In the end, Kelly describes how the immigrants, once freed from the refugee camps and from official control, sought out their own communities in urban centers like Los Angeles and Washington, D.C. where they began the long process of building dual identities as Vietnamese-Americans.

More work certainly needs to be done on the refugee experience but Kelly's

study is a solid beginning. Along with Tran Von Don's personal reflections, her book provides one more graphic example of how two people, so different in so many ways, have come to construct a common, however unequal, history in the twentieth century.

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BENJAMIN I. PAGE. *Choices and Echoes in Presidential Elections: Rational Man and Electoral Democracy*. Pp. xvi, 336. Chicago: University of Chicago Press, 1978. $17.50.

The study of elections has been the province of students of mass behavior for almost thirty years, with the result that the voter, not the candidates or the campaign, has provided the centerpiece for most accounts of what happened, and why. *Choices and Echoes*, in contrast, deals less with voters than it does with candidates. The mass behavior studies confronted traditional theories of elections and democracy with an electorate that didn't fit the theories; this book attempts to fit candidate behavior to two contrasting theories of elections and democracy.

Both of these theories, according to Page, postulate a strong role for public opinion; it is the nature of the role that distinguishes the theories. The first theory rests upon spatial models. Candidates and parties respond to public preferences, in this theory, by offering virtually indistinguishable programs to the electorate. The Democrats and Republicans, and their respective candidates, respond to public opinion by adopting the position of the median voter, resulting in elections in which there is no systematic difference between the parties and candidates.

The competing theory is characterized by Page as the cleavage or responsible party theory. Here too public opinion is important, but different opinions are important to different parties and candidates. Candidates are governed by their own preferences and differently influenced by activists, primary electorates, and "fat cats," with the result that candidates and parties take contrasting positions.

According to the first theory, elections involve candidates who require voters to select between echoes; while the second theory assumes that candidates diverge in their stands on the public agenda and offer voters distinctive choices. Predictably there is evidence that candidates are both ambiguous—as the spatial theory predicts—and unequivocal and distinctive—as the responsible parties theory expects.

Candidate differences tend to parallel those of party identifications. Democratic and Republican identifiers disagree the most on domestic issues (especially social welfare and race matters) and the candidates tend to be the most distinctive on these questions also. Generally, Page finds that candidate differences are positively related to the size of the cleavage between party identifiers. On the other hand, ambiguity seems rife. Across all the elections, both candidates adopt positions which are close to the plurality opinion of the electorate. Where this is not the case, as for example with Goldwater and McGovern (although, curiously, some of Page's data show McGovern close to the plurality of the electorate), Page is able to show an effort by the deviant candidate to bring his position more in conformity with the plurality position. Even where a careful reading of the record indicates distinctive policy stands, Page documents a concerted effort to phrase policy statements in ways that soften their hard edge. A focus on themes and goals with which none disagree, policy stands that are infrequent and inconspicuous, lacking in specificity, and often delivered before special audiences constitute the features of the "art of ambiguity" as it is practiced by presidential candidates.

These broad outlines of Page's analysis are clear; and the prodigious effort invested in content analysis of the documents that are necessary to assess the position of candidates between 1952 and 1976 mark this book as a major effort and the first of its kind. But it suffers some defects that one wouldn't normally

expect from a quantitatively oriented researcher.

A curious omission is any summary estimate of the balance of ambiguity and clarity in candidate stands. So many issues and so many elections are discussed that it is difficult to form an overall impression of the level of ambiguity among presidential candidates. The lack of any numerical estimate of the relative ambiguity and clarity of the candidate's stands also inhibits reaching conclusions about ideological clarity in one election compared to another, something which, in turn, makes it impossible to analyze the influence of issue clarity by candidates on the choices voters make at the polls. This lacunae seems all the more striking because a late chapter examines voter choices without any regard to the problem of candidate ambiguity. The chapter implicitly assumes that presidential candidates are ambiguous, and that presidential voting is, *and should be*, retrospective. The role of ambiguity in voter choice would seem to merit a more rigorous analysis.

Choices and Echoes is carefully researched and judicious, but it is not the book that I would have preferred to see. The effect of the candidate on elections should have been more fully analyzed. Still, Ben Page has pointed the way. Subsequent work on the role of candidate policy stands in the choices made by voters is sure to follow this original effort.

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ROBERT REINER. *The Blue-Coated Worker: A Sociological Study of Police Unionism.* Pp. xi, 295. New York: Cambridge University Press, 1978. $27.50. Paperbound $9.95.

The reader whose notions of British policemen have been shaped by detective fiction will not recognize the men described here. Reiner, a lecturer in sociology at Bristol, interviewed a sample of 168 constables, sergeants, and inspectors (superintendents are considered management) during 1973–74. He was concerned chiefly with attitudes toward work and toward unionism. His sample was "more satisfied than most manual and lower-grade nonmanual workers but less so than professionals," although 74 percent see themselves as professionals (pp. 262–63). A slight majority felt that its Federation was an acceptable form of representation as opposed to a union (52% to 45%) but "an actual strike was viewed with horror by most policemen, even among the uniform constables who were keenest on the Federation having more powers" (p. 109). Reiner found a growing tendency of police wishing to influence social policy rightward, particularly on matters affecting law and order.

He identified six types: "bobby," "new centurion," "uniform-carrier," "social worker," "professional," and "federation activist." He found that policemen "tend to develop a hard-boiled cynical, even bitter perspective on life." The research and conclusions seem careful and well documented. This book will be particularly useful to the growing number of sociologists and historians concerned with police activities. An early chapter (pp. 19–54) gives a brief history of police unionism in Britain. The current Federation, which replaced the militant Police Union that was smashed after its unsuccessful 1919 strike, does not have the right to strike, causing one activist to write: "A vasectomy recipient is rather like the Police Federation . . . equipped with all the . . . machinery . . . but without the power" (p. 54).

For American readers the attitudes will be familiar, but the central control of police by the Home Office strikes an unfamiliar note. That body refused to allow the author to ask nine questions he had prepared, five of which dealt with perception of social class—"People often talk about there being different social classes—what do you think? What underlies this distinction between classes?"—and four with political loyalties and voting.

ROGER DANIELS
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JERROLD E. SCHNEIDER, *Ideological Coalitions in Congress*. Pp. xvi, 270. Westport, CT: Greenwood Press, 1979. $22.50.

Professor Jerrold Schneider has presented us with an important work. In *Ideological Coalitions in Congress* he has undertaken an evaluation of the strength across time of ideological congressional performance. Accordingly, Schneider's "central hypothesis is that there exists a very high consistency of congressional coalitions across all major policy domains, foreign and domestic" (p. 3).

In pursuing the systematic examination of this "central hypothesis" Professor Schneider has embarked upon a most timely subject. One cannot turn to a popular or scholarly publication today without encountering a discussion of the strength of conservatism or liberalism (generally, although not necessarily accurately, the latter is said to be in a state of disrepair and decline). When placed in the context of the U.S. Congress, one is led additionally to believe that ideological points of view, unless they are conservative, are kept to a minimum if in fact they are not purposefully concealed from the public, particularly one's constituents.

Schneider's overall finding both confirms his "central hypothesis" and helps to clear the air a bit concerning the ideological status of our polity, at least with respect to the Congress. The verdict is that our's is an ideological polity and that in terms of actual congressional behavior we have not been witnesses to an "end of ideology." As he puts it, "in a nutshell the conflict is between a market orientation and a social justice-democratic government orientation" (p. 203).

Findings such as those Schneider generates are very important for professional political scientists (which he is) and citizens alike. For the citizen one does discover a quality of life meaning to contemporary U.S. politics at least at the congressional level. It does, in short, make a difference! Such a finding, while perhaps a bit puzzling and surprising to some if not to many, will before too long be refreshing. His professional political science audience will: (a) not so easily be convinced; and (b) surely not be so refreshed!

The American political science profession mainstream has for numerous decades held to the "pluralist" perspective that ideological matters have either diminished or evaporated from the practical scene. Almost all professional students of Congress tend toward such a pluralist perspective. To this group Schneider's efforts (which I find persuasive) pose an important challenge. I hope this work stimulates serious re-evaluation in this quarter.

This important book was written for fellow political scientists, replete with much data and methodological paraphernalia, and while a particularistic scholarly virtue this is often a general vice. It is not light reading for anyone, although quite valuable for its message and its excellent bibliography.

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SOCIOLOGY

JAMES H. AUSTIN. *Chase, Chance and Creativity: The Lucky Art of Novelty*. Pp. xvii, 237. New York: Columbia University Press, 1978. $12.95.

GEORGE BECKER. *The Mad Genius Controversy: A Study in the Sociology of Deviance*. Pp. 162. Beverly Hills, CA: Sage, 1978. $6.00.

In this centennial of the birth of one of history's great geniuses, Albert Einstein, it seems appropriate to be reviewing two recent works intended to examine the processes of creativity and the image of the genius in historical perspective. The first, *Chase, Chance and Creativity*, was written by James H. Austin, M.D., a neurologist-researcher and chairman of Neurology at the University of Colorado Medical School, who has been active since the early 1950s studying biochemical determinants of neurologic disease. The second, intriguingly titled *The Mad Genius Controversy*, is the work of George Becker, a recent Ph.D. in sociology now at Vanderbilt University.

Austin provides a highly readable three-part volume that views creativity as an unpredictable process influenced at many points by chance events. The first part of the book, entitled "The Meandering Chase," is a personal account of fifteen years of selected incidents from the author's distinguished research career. Although he apologizes early for what might be considered an egocentric narrative, it proves to be captivating and quite informative on several counts. It nicely illustrates the vagaries in the process of scientific investigation and discovery. Austin traces his own work through a maze of events that includes a chance finding while browsing through a library, an encounter with an unusual patient during clinical service, and a lucky meeting with a previously unknown colleague while waiting for an elevator at a convention, as well as all of the usual hard laboratory work that is a given in the pursuit of science. This narrative has a ring of authenticity that should be both familiar and appealing to any who have closely examined the courses of their own careers.

In the second part of this book four types of chance are examined, each of which is said to bear on the process of scientific creativity. The first, termed, "Chance I," is the kind of blind luck which could happen to anyone and occurs quite independently of any attribute of the individual receiving such a benefit. "Chance II" occurs predominantly to those exhibiting high levels of energy devoted to general exploratory behavior. Exposure to more sensory experience is likely to stimulate the receptive mind to have more insights about problems of concern. "Chance III" is the sort of luck which favors those with a special background of knowledge that prepares them to grasp and appreciate the significance of a chance event. "Chance IV" on the other hand is the sort of luck that comes to individuals as a result of their unique predilection to behave in certain ways, such as the persons with a unique constellation of hobbies and leisure activities. As shown in his personal narrative each of these modes of luck had a bearing on the scientific advances he was able to achieve.

The third part of Austin's volume contains a series of interesting, though poorly connected, essays discussing a variety of issues that touch on creativity, such as brain function, motivation, and personality structure. One of the final essays outlines a "prescription for creativity." It outlines strategies for structuring environments and behavior in ways conducive to stimulation of the four types of chance.

While *Chase, Chance and Creativity* will not fully please those who prefer to emphasize the roles of either personality structure or the "work ethic" in the making of scientific advances, Austin's emphasis on happenstance and luck provides an interesting and valid complement to the usual perspectives of the creativity literature.

George Becker's volume is a highly focused historical study of persons of genius from the perspective of the sociology of deviance. Early studies in the sociology of deviance emphasized the culpability of rule-breakers themselves in bringing about their own stigmatization in society. More recently the "labeling" perspective has radically shifted this emphasis. Rule-breakers are now seen as victims who have labels bestowed upon them by "respectable" others designating them as deviants. This very labeling, it is argued, is responsible for the consolidation of a deviate identity in the rule-breaker and, consequently, enactment of further deviate acts. The juxtaposition of traditional and labeling perspectives becomes the central theoretical issue in George Becker's *Mad Genius Controversy*.

While persons of genius have been recognized since antiquity, such prowess was viewed as a distinctly positive, almost supernatural, endowment until the mid-nineteenth century. Occurring between the mid-nineteenth and twentieth centuries, Becker describes a transformation of image of genius from one of supranormal creativity, imagination, and balance to one of superior creativity coupled with congenital psychological instability. This revision of

image is traced to individual and social factors. In part, the geniuses themselves appear to have promoted the portrait of madness as a way of setting themselves off from the average or merely "talented" person. And, to some extent, the revision of image seems to have been the response of a rapidly changing society to persons whose vision threatened to stimulate additional innovation and disruption.

This predominantly historical monograph becomes most relevant to the sociological theories of deviance in its closing chapter. In it Becker argues persuasively that the labeling perspective, if applied to the situation of post-enlightenment genius, would miss altogether the significant element of self-labeling observed in the geniuses themselves. In some regards this study of a now historically remote phenomenon serves as a vehicle through which Becker calls for balance in the analysis of contemporary deviance. While the labeling approach may rightly identify the potential for victimizing rule-breakers by the very act of defining them as deviate, the choices made by these rule-breakers to assume deviate identities (like the geniuses in question) should not be ignored.

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LEONARD U. BLUMBERG, THOMAS F. SHIPLEY, JR., and STEPHEN F. BARSKY. *Liquor and Poverty: Skid Row as a Human Condition*. Pp. xxii, 289. New Brunswick, NJ: Rutgers Center of Alcohol Studies, 1978. $14.00.

This volume adds to the monographs published over the past twenty years by the Rutgers Center of Alcohol Studies. Blumberg and Barsky are sociologists and Shipley is a psychologist; all are at Temple University. This work grew out of a study of Philadelphia's Skid Row, supported initially by a grant from the National Institute of Mental Health.

The authors attempt to produce a conceptualization of Skid Row that is at once scientifically valid and viable for policy recommendations. They bring together historical, ethnographic, demographic, and case study data on Skid Rows in American society over time and different localities. This material is valuable in itself and illuminates the connection between such neighborhoods and the personal and social circumstances from which their inhabitants come. As such it is primarily a work in urban sociology.

The reader gets the impression that problem drinking itself is a relatively small part of the entire picture. The authors report that only about a third of Skid Row's inhabitants could be classified as "alcoholics." They seek to shift the focus from Skid Row as a place to a "human condition" which could be found anyplace. Drawing upon the earlier Minnesota study of Skid Row redevelopment and the late Dr. Keith A. Lovald's pioneering conceptualization of Skid Row as a status community, the present authors view "Skid Rowness" as a lifestyle of the socially "disaffiliated" caught in the web of poverty and alcohol.

The work fails to note that Skid Rows don't just emerge, they can be "manufactured" even coerced into existence. For example, the Bowery in New York City was a literal "dumping ground" for homeless men brought there by local police from all over the state. These men already suffered from "Skid Rowness" but the Bowery as a status community of marginals was more enacted than crescive.

The authors include an interesting discussion of women and blacks on Skid Row, two strata that are marginal even to that marginal community. Focusing on a condition rather than a place, the author's policy recommendations are based upon "preventive" and "positive" checks.

Recognizing the difficulty of eliminating poverty, they call for a national program of guaranteed annual income and the elimination of alcoholic addiction. How either is to be achieved is unclear since American priorities seem to lie in other directions, both politically and economically. They also present suggestions for more humane and ameliorative treatment of Skid Row residents.

How people get lost in society's shuffle is an important and worthy topic for social science research. Contributing to an understanding of one form of social and personal dislocation, the present volume will be of interest to urban sociologists, community workers, and those in the help professions. Lacking, however, is a macro structural approach which relates the Skid Row syndrome to the class structure and vested economic interests as they influence political institutions. "Skid Rowness" as a "blight," nevertheless reflecting the "normal" structural workings of society, still has to be explained.

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WENDY CARLTON. *"In Our Professional Opinion": The Primacy of Clinical Judgment Over Moral Choice.* Pp. 214. Notre Dame, IN: University of Notre Dame Press, 1978. $12.95.

Wendy Carlton, a sociologist, joined the staff of a modern medical teaching hospital and these are her conclusions based on her experiences: the three major perspectives in the hospital setting are the clinical, the legal, and the moral. The clinical includes an evaluation of patient history, physical examination, laboratory tests, and other disease related practices. The legal aspects entail the evaluation of the facts, reference to a precedent, and additional legal principles which will contribute to an interpretation of the law. Moral actions are related to personal values and define an action as right or wrong. Carlton specifically observed that "Medical students are being socialized into using the clinical perspective to resolve clinical problems with little or no regard for the ethical aspects of their professional behavior" (p. 171). The consequences of this practice have been noted for some time; however, it is important to have the "dehumanizing" process documented and its important ramifications explored.

As students advance through medical school they learn to abandon the perspective of the lay person and patient in order to carry out their assignments and receive the approval of their teachers and senior physicians. Fully scheduled and hectically involved in self arranged chores, the student finds little or no time to reflect on all of the consequences of his scientifically and technologically determined procedures for treating patients with a variety of illnesses including the acute, chronic, serious, and trivial.

Carlton has found that the physician has adapted to the rigors of his profession by over indulging in the technicalities of diseases and their treatments, at least in one unidentified university hospital. Expanding medical technology has created problems where none previously existed. "At times medical progress outstrips the pace of change in social norms, so that physicians face dilemmas that are not governed by generalized social sanctions. Often the question of what to do is resolved by doing nothing, which alleviates physician discomfort with uncertainty, by allowing nature to take its course" (p. 68).

The goals of the physician in administering elaborate and expensive treatment are questionable when individuals remain alive after disease has greatly reduced bodily function and stamina. Physicians are led to this predicament by following a sequence of decisions made in three steps. First they exhaust all procedures to arrest disease, then they continue to prolong life in an effort to avoid legal sanctions or medical malpractice, and, finally, conclude by justifying their actions based on personal values and beliefs which they would employ in caring for people to whom they are closely related. Examples of specific patients are used to illustrate the clinical, legal, and moral complexities of modern medical practice.

The author, on the other hand, has taken full advantage of her unusual opportunity to gather sociological data by observing the daily events in a university hospital and following selected medical students through their training. She has carefully avoided censoring the medical profession and offers what I believe is a very sensible and practical

suggestion to improve hospital medical care.

Carlton argues for less autonomy and power for the physician and more direct association between patients and society with concomitant responsibility being accepted by society. One form that this idea might take is in acknowledging that physicians cannot be expected to give additional personal attention to patients, but that various volunteers, part time employees, nurses, and others (grandmothers, people who are recuperating from an operation, retirees) be given some responsibility for meeting the patient's social needs when the patient's family and friends are not able to provide them. By exposing more people to the hospital environment and allowing those with special social skills to assist in the disease alleviating process, the physician may carry out his own unique functions without undue worry over the aspects which he cannot control nor, indeed, is equipped to undertake. Increased delegation of responsibility to accomplish the myriad of processes in maintaining and healing a patient may well be one of the most important suggestions to come from the sociologist's study of the modern American hospital.

The book is short, mercifully lacking in jargon, every physician and all who want to understand modern hospital medicine ought to read it.

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LEONARD DINNERSTEIN, ROGER L. NICHOLS, and DAVID M. REIMERS. *Natives and Strangers: Ethnic Groups and the Building of America*. Pp. xiv, 333. New York: Oxford University Press, 1979. $13.95.

The authors observe that their "purpose in writing this book has been to emphasize, in a way that has not been done before, the role of blacks, Indians, and immigrant minorities in the transformation of the colonial society into the nation of the 1970s." Beginning with "Colonial Foundations (1660–1780s)," they have anchored a series of themes into chronological frames: Forging a New Nation: The South (1776–1840s); Forging a New Nation: The North (1776–1840s); Immigrants and Nativists (1840s–1880s); Burgeoning Industrialism and a Massive Movement of Peoples (1880s–1930s); The Progress of Adjustment (1880s–1930s); Ethnic Groups and the Development of the West (1840s–1930s); Ethnic Tensions and Conflicts (1880s–1945); The Ethnic Shape of Contemporary America (1941–1977); The Struggle for Equality (1945–1977). If history is seldom so conveniently compartmentalized, and if the major protagonists are eclectically chosen (only Anglo-Saxons seem to have been excluded), the authors are, nonetheless, to be commended for their zeal.

In so elaborate an historical portrait, it is inevitable that the net result, at best, is a skeletal overview, and the authors concede the limitations of their study: "Obviously, in a book of this size we have not been able to emphasize all groups as much as we would have liked." Also, they acknowledge that "many themes overlap chronological barriers, and in several of the chapters ideas and movements of other years seemed to fit best in our narrative where we placed them. Hence the dates we use should be interpreted loosely." And it is important that the reader keep in mind the authors' governing conceptual definition: "We have used the expression ethnic group to mean a group with a shared or common culture and a sense of identity based on religion, race or nationality." Cognizant of these limitations and operating definition, the authors intend their text "to inform college students and general readers." All of this should constrain a reviewer from criticisms appropriate to works intended for specialized audiences, and proposing sociohistorical assessments which invite serious evaluation.

What the authors offer is a competent but essentially unimaginative account of the peopling of the United States, deriving almost totally from secondary sources and without any disciplined management of the complexities which accompanied the process. Neglected are outgroup marriage and the blurring of ethnic lines; the subtleties of immigrant

social mobility (perceptively explored by Thomas Kessner in *The Golden Door*); the dynamics of racial and ethnic group relations; and the evolving patterns of assimilation and pluralism, social stratification, and marginality (for which, see Milton Gordon, *Human Nature, Class, and Ethnicity*).

It is not altogether true, as the authors affirm, that their text is "the first survey of recent years that attempts to integrate the experience of racial, religious, and national minorities and explain how their histories intertwine with the emergence of modern America." For one, Maxine Seller has done precisely that in her *To Seek America: A History of Ethnic Life in the United States*; and so have others in a multitude of more dimensionally defined frameworks.

A true test of this text is the careful scrutiny of the authors' treatment of specific ethnic communities with which the reader has indigenous identity, and of whom he has modestly competent knowledge. My examination of the materials on Italians and Puerto Ricans found palpable (but not fatal) deficiencies. For example, in a subsection on "The Puerto Ricans" there is the gratuitously implied criticism of the contemporary poor: "Contemporary minority peoples expect more services than did the immigrants of previous generations. They consider health care, food for the poor, assistance in finding jobs, and provision for decent housing facilities governmental responsibilities. When the government ignores their needs . . . the poor (often the minorities) vociferously protest."

Further, it is misleading to state, as the authors do in a subsection on "Prosperity and Mobility": "Only slowly and very recently did the doors at the top open. One could find a Jewish, Italian, or Polish name among the elite, but the breakthroughs were just beginning in the 1970s." It may be that the compelling diffusion of the text precluded truly adequate treatment of any group.

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DEREK GILL. *Illegitimacy, Sexuality and the Status of Women*. Pp. xvii, 362. Totowa, NJ: Basil Blackwell, 1978. $22.50.

Perhaps it is only the rapidity of change, but Derek Gill's views on illegitimacy, sexuality, and the status of women seem archaic and distracting. The main drawbacks of this book are exclusive reliance on data from the United Kingdom—specifically the university town of Aberdeen, a prosaic view of the subject—and an excessive price. Unfortunately, the book's content is not sufficient to lift it beyond these liabilities. Gill's use of the term "illegitimate children" suggests a pejorative understanding of reproduction, sexuality, and the changing roles of women—a situation American policy debate has struggled to overcome for the past two decades. For Gill, both the "illegitimate child" and the mother are socially unique because "cohabitees are more likely to be from the lower classes" (p. 15), "women who [keep] their children [have] less well adjusted personalities" (p. 70), and "the majority of women who bear illegitimate children are drawn from the lower socio-economic groups" (p. 227).

Gill's theory of "illegitimacy" can be distilled from his last chapter. According to Gill, illegitimate children and their mothers are stigmatized because they are from the lower classes. Additionally, these mothers are reluctant to place the children for adoption. He argues that as women have become less encumbered by traditional roles, "humanistic" views about "illegitimacy" have replaced negative attitudes. In response to these changes, Gill suggests social policies which prevent illegitimacy among single women through better educational programs, prevent single parenthood by discouraging marital breakup, provide social actions to break the "cycle" of illegitimate pregnancies, offer financial support for mothers of "illegitimate" children, and provide supportive social services, such as counseling and adoption. It is difficult to anticipate any improvement in the status of women

which may occur as a result of these policies.

As far as the American experience is concerned, both Gill's theory and his policy recommendations leave much to be desired. Position papers recently developed as preludes to the White House Conferences on Children and Youth and the Family, suggest American social policy has acknowledged plural family forms. Over 13 percent of all American families are single-parent and female-headed. Very few of the growing numbers of American children who live in single-parent families are a product of out-of-wedlock births. Furthermore, during 1977–78, the United States Senate Hearings on Child Care and Child Development revealed that a majority of women with children under age 18 now work outside the home, and 41 percent of these mothers have children under age six. Yet, licensed day care resources are available for less than 25 percent of the children under six years old whose mothers are working.

Americans are concerned about teenage pregnancies and day care resources as opposed to "illegitimate" births. Half of all out-of-wedlock births occur among teenagers, and these teenagers are likely to come from low income families. But, like British women, American women appear reluctant to accept adoption as a solution to out-of-wedlock pregnancies, particularly when single-parent families have become increasingly acceptable. American social policy has focused on the development of adequate day care resources to permit greater participation in the labor force by all women. In 1979 Congress proposed a far-reaching Child Care Act to expand day care resources to meet the growing needs of children in families where adult care in the home is not adequate.

The changing status of women, children, and the family in America is in stark contrast to issues of "illegitimacy," particularly those described by Gill. Gill would appear to turn back public opinion 30 years by suggesting that negative sanctions toward children in single-parent families, including those born out-of-wedlock, would reinforce support for traditional families. Fortunately, Americans have stopped punishing children for parental infractions of outworn social codes. To this extent, Gill's interpretation of such an important social issue will be unlikely to win much American support.

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TAMARA K. HAREVEN and RANDOLPH LANGENBACH. *Amoskeag: Life and Work in an American Factory-City.* Pp. xiii, 395. New York: Pantheon Books, 1978. $15.00.

In part, the new social history of recent years has been a matter of vital statistics and aggregate analysis. Mixed with this, however, has been another kind of enterprise, an effort to recover mass experience through the recording and study of oral traditions and memoirs. In this respect, recent work in the field has resembled both the life-history sociology of the 1920s and the "documentary realism" that flourished in the 1930s.

The book under review is the result of an oral history project which, beginning in 1972, set out to interview individuals formerly connected with the Amoskeag textile mills in Manchester, New Hampshire. Its core consists of thirty-nine memoirs, grouped so as to shed light successively on the establishment's "golden age," the managerial point of view, the worlds of work and family life, and the impact of strikes and corporate failure in the 1920s and 1930s. The authors also provide brief descriptions of the city and of manufacturing processes. They include some magnificent photography illustrating the relationship between architecture and social structure. And in a fifteen-page introductory section, they discuss the growth of Amoskeag into the world's largest textile factory, the changing nature of its work force, and the events leading to its shutdown in 1935.

The memoirs, taken as a whole, make fascinating reading and contain a number of surprises. If they document the

hollowness of company paternalism, they also reveal a world at marked variance with the images usually found on the political left. The interviewees, by and large, were not isolated human atoms alienated from their work and seeking solace in meaningless distractions. They brought with them traditions and institutions that continued to shape and give meaning to their lives. They adapted these to the dictates of mill life. Many took pride in their work, identified with company traditions, and saw the post-1920 difficulties not as products of the system but as the result of alien intrusions by efficiency experts and labor agitators.

Amoskeag makes available a kind of historical evidence of which we have far too little. But it also reflects another characteristic that the new social history shares with its predecessors of the 1920s and 1930s, namely a tendency to let the evidence "speak for itself" and, in the name of "complexity," "richness," and "realism" to refrain from "theorizing" about what it all means and how it relates to existing knowledge. One hopes that the gatherers of the new testimony will soon get on to this equally important task.

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TAMOTSU SHIBUTANI. *The Derelicts of Company K: A Sociological Study of Demoralization*. Pp. xv, 445. Berkeley: University of California Press, 1978. $14.95.

The author has written a saga of Japanese-American soldiers in World War II. It was over 30 years in the making for reasons including a deep personal involvement in the events. Field notes on which the book is based were transcribed in 1947. While the long delay was unintentional, candid appraisal has been a beneficial consequence. Like a good novel, the reader is compelled to identify with the cast of characters and to sympathize with familiar armed forces "snafus" and "catch 22" situations. Company K takes a rightful place alongside other classic reports of participant observation such as *Street Corner Society, Tally's Corner*, and *Hard Living on Clay Street*.

Analysis is made against the backdrop of the outstanding performance of the more than 20,000 Nisei (American-born children of Japanese immigrants) men and women who served in the U.S. armed forces during the war and who so convincingly proved their loyalty to America. The question Shibutani answers concerns why Company K should have deviated so sharply from the pattern with its record of widespread absenteeism, protest, insubordination, and intramural violence between mainlanders and Hawaiians. The case study material is found in chapters 2–8 which include: The Challenge to Nisei Loyalty; The Social World of Nisei Servicemen; The Initial Break in Discipline; The Disposition of Surplus Personnel; Impetuous Reactions to Degredation; Fluctuations in Company Morale; and Anarchy at the Replacement Depot.

The narrative recounts the way in which beliefs and sentiments about the army, their leaders, and themselves were developed informally in response to circumstances and enforced among themselves. After basic training, late in the war (spring 1945), the complement which was to form Company K arrived at an overseas replacement depot, where the troubles began. "Although everyone was familiar with the absurd situations and bureaucratic bungling that arose periodically in the armed forces, none had encountered so many blunders, some of them approaching the grotesque, in a single company in such a short period of time" (p. 167).

In Chapter One the initial question regarding group solidarity is answered: What is *morale*? It is the degree of effectiveness with which the recognized goals of joint enterprise are pursued. Every group develops a distinctive style of performance; consistent performance efficiently done brings high morale. Failure in collective effort, as people become unwilling to continue to perform their duties, is referred to as *demoralization*.

Group behavior is grounded ultimately

in definitions of situations, as argued in the last chapter. Shibutani's position is consistent with his previous work on the sociology of rumor. Morale and demoralization rest upon the emergence of definitions and norms. "Morale varies with the ways in which people who are in close, sustained contact define and evaluate the transactions in which they are participating" (p. 426). Definitions at variance with official views come from situations which are problematic.

As they pursued their army careers, the Nisei of Company K found, at each stage, the deck stacked against them. Demoralization came from an increasing reluctance on the part of participants to comply with institutional norms defined as a no-win deal. The derelicts found ways to cope with the frustrations arising as reactions to incredible inefficiency and discrimination on the part of the army. Their response, as documented by Shibutani, was compellingly human; often humorous as well as tragic.

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ALLAN P. SINDLER. *Bakke, DeFunis, and Minority Admissions: The Quest for Equal Opportunity*. Pp. xi, 358. New York: Longman, 1978. $12.50. Paperbound, $5.95.

Malvina Reynolds wrote of doctors and lawyers in her song *Little Boxes* that "they're all made out of ticky tacky, and they all look just the same." Severe competition for medical school admissions spawned a remarkable sameness for years: most new enrollees were white elites with high test scores. Medical schools, as "gatekeepers" to the profession (p. 147), have used restricted entry policies, which have helped maintain medicine as "the best-paid profession in the country" (p. 45).

Lyndon Johnson's 1965 affirmative action program shifted the elitist thrust toward racial balance. Decades of hurts inflicted upon minorities were to be corrected by aggressive programs designed to grant blacks and Chicanos access to professional schools. Administrators hungry for federal funds had to decide how to redress inequities while maintaining high standards.

As one Allan writing about another, Berkeley political scientist Sindler authoritatively describes the progression of Mr. Bakke's court battle. By setting *Bakke* within a framework of policy choices, Dean Sindler clarifies processes of individual, group, and government interaction. Marco DeFunis, 1971 litigant for University of Washington Law School admission, wrote one of the record 57 *amicus* briefs filed with the Supreme Court to help it "come to its decision" (p. 202). Bakke became the silent bystander until June 1978, when a bare Supreme Court majority led by Lewis Powell ordered his admission to the University of California at Davis Medical School (UCDMS), striking down a racial quota system (which allowed minority applications for all 100 spaces, but white applications for only 84 spaces). Another 5–4 decision upheld the use of race "as an admissions factor" (p. 293).

Though indicating that *Bakke* was not "a landmark case" (p. 318), Sindler's book is a landmark publication. It is not only the first book about *Bakke*, but also a well-researched and cogent work, focusing on such problems as improving precollegiate preparation and fair testing procedures. It can serve as the foundation for future studies which deal with employment discrimination.

In treating selective admissions, Sindler alludes to covert discrimination other than race. Bakke found that his age (33 upon application) worked against him. Another UCDMS applicant, Rita Clancy, was admitted by court order on *Bakke* grounds in 1977, disadvantaged as an immigrant. Her admission reflected also increased preference for women in professional school admissions.

Bakke has become a benchmark for educational litigation. Sindler's timely analysis indicates that concern about "setting of job qualifications" (p. 265) through educational policy is an important element of political dialogue.

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JOSEPH TUSSMAN. *Government and the Mind.* Pp. v, 175. New York: Oxford University Press, 1977. $8.95.

H. S. FERNS. *The Disease of Government.* Pp. 148. New York: St. Martin's Press, 1978. $9.95.

These two books challenge current views on the function of government; that it is beneficent; that it should not concern itself with affairs of the mind.

Professor Ferns contends that government improperly interferes with the economic health of the community. He believes in a laissez-faire capitalism, recognizing that it has never existed. The role of government should be restricted to ensuring equality of opportunity and preventing fraud. He therefore approves both our Wagner Act and the S.E.C., but he is opposed to the notion of a planned economy and to large public spending. He points out that there is no way to check the usefulness of such projects, no market in which they are tested as are private ventures.

Professor Ferns proceeds on the assumption that the productive forces are unable to meet the claims of those entitled to income: in other words, that there are too many parasites, including among these the increasing number of state pensioners. His book makes fascinating reading, drawing on many episodes in economic history, ancient and modern. In one chapter the author sketches recent British experience and is particularly scornful about tying pensions to the cost of living, calling it a burden on those who work for those who do not. He graphically calls the present political system "auction politics."

About inflation Professor Ferns is drastic. He says it encourages the "bit by bit socialists." He believes it can be stopped by depriving the government of the power to manipulate the currency—thus allowing people to trade freely in all foreign moneys—and by limiting its right to tax to income taxes. (Presumably he is speaking of the national government and does not intend to deprive localities of the power to impose taxes on property.) And he would allow government to provide services so long as they are "self-liquidating." He foresees a bright future when the government "is limited to the making of rules about human activities and ceases to be concerned with the outcome of activities." It seems to this writer a utopian dream.

Professor Tussman deals with an entirely different world. His book is philosophically very subtle, his arguments embellished with "Notes" of 40 pages, some of which are themselves short disquisitions. He reminds us of the large part played by various government agencies in the area of the mind. The schools, of course, are the outstanding example. Teaching cannot avoid some form of taking sides, if only in the selection of material. And in the adult world government also plays a part. By the criminal law it restricts certain kinds of utterances; by its grants it encourages certain kinds of intellectual activity; by its publications it feeds the minds of its citizens.

He finds no royal road to freedom of the mind and argues that it is a harmful illusion to believe that the government has no role to play. But Professor Tussman really offers no solution for the dilemmas he presents, ending with the statement that "government shall not act unnecessarily or unreasonably in the area of speech."

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R. A. WILD. *Social Stratification in Australia.* Pp. 202. Winchester, MA: Allen & Unwin, 1978. $20.50. Paperbound, $10.50.

D. A. KEMP. *Society and Electoral Behaviour in Australia: A Study of Three Decades.* Pp. xxii, 401. Lawrence, MA: Queensland University Press, 1978. $30.25.

Wild devotes himself to a study of class, status, and party as they are closely interrelated with ascribed inequalities of race, sex, and age in Australian society. In doing so, he integrates in a well organized treatise what he calls "complementary" anthropological, sociological, and historical findings.

Wild portrays the transitions of Australian society from a penal settlement through its period as a useful British colony to its present increasing involvement in activities controlled by multinational corporations. As part of this, he examines the significance for social stratification of the "rise of the civil rights of individual freedoms, followed by the political rights of universal franchise, and finally the social rights of welfare." He does not conclude that these developments have changed "the basic nature of capitalism." On the contrary, he sees that they function "to stabilise and entrench class and status differences within a capitalist framework."

The chief change that Wild sees in his society is an "increasing complexity built on a class foundation." In this, he stresses "a complex mingling of status groups, a proliferation of specialist elite groups, and, overall, a complicated dialectical relationship between rationality and irrationality" in social organization and culture. He is pessimistic about society in Australia becoming more equal. As he notes, "Australian egalitarianism, as a description of social rights and conditions, never existed; as a meaningful ideology about personal relationships, it is virtually dead."

At the same time, he points out that the gaps between classes and between ethnic groups continue to grow and that an "economic recession could quickly give rise to a complex situation of racial and class conflict over access to such rewards as jobs and income." The increasing bureaucratization of social controls and the fragmentation of social classes can scarcely serve indefinitely as buffers for revolt against oppression and exploitation. The issue is not whether or not there can be an egalitarian society. There has never been one. The Australian problem, like that of so many other countries, is how to maintain an acceptable society through minimizing social inequalities to the extent possible.

Kemp views his study of electoral processes in Australia as especially significant because he believes that his country "is as 'pure' an example of an advanced industrial society as may be found." Not knowing any acceptable definitions for "pure" or "advanced" in this context, this point escapes me.

In contrast with Wild, Kemp apparently sees no political threat in "ethnic, regional, and linguistic cleavages whose expression might well obscure trends towards homogenization." He claims his country is "remarkably free" of such cleavages. As he sees it, "class and religious networks apparently no longer influence voting in the way they used to."

The study Kemp reports here deals with the connections between a voter's position in the social structure, in "the system of interaction in society," and political partisanship. It is based upon available electoral and population data and upon a secondary analysis of opinion survey materials. He considers these materials in relationship to the party system and social structure, class cleavage trends, urbanization and suburbanization, religion, and education. He concludes that political parties are "disintegrating for lack of sustaining concerns" and because of the attention that nonpolitical issues are demanding of the electorate. The old party approach to politics is thus giving way to more of a public relations or propaganda approach.

It is curious to contrast the two works. The former is by a fieldwork and scholarship oriented anthropologist, and the latter is by a manipulator of "hard data." Their views of Australia do not match.

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ECONOMICS

G. A. COHEN. *Karl Marx's Theory of History: A Defence*. Pp. xv, 369. Princeton, NJ: Princeton University Press, 1978. $18.50.

If this able and careful work is both satisfying and unsatisfying, the fault lies probably more in the task the author has set himself than in his exe-

cution of it. What we have here is not so much a defense of Marx's materialist theory as a correction of it, and the result is neither exactly Marx nor a totally new, independent theory by Cohen.

Among the numerous virtues of the work, we should notice its concern with clarity. There are no hidden cards in this deck; the author leads us through his arguments with the greatest care. Starting with a detailed introduction mapping out chapter by chapter what topics will be covered and what points will be made about them, he then moves to a quick explication of Hegel's philosophy, and of Marx's debt to Hegel and divergences from him. As an aside, we should thank Mr. Cohen for laying this groundwork; most of us when in need of an instant profundity can probably state that Marx was influenced by Hegel, but how many of us are ready to detail just how?

Though these initial sections are rather simplified, most of the work is far from being so. Some of the arguments are so fine-spun that the reader may begin to feel that Cohen's instinctive reaction on being confronted with a hair is to split it; but again, the difficulty results from the nature of the problem. Marx's thinking and language were both very nineteenth century, and he did not always use his terms as rigorously as the logician would like. Inevitably, in language as opposed to symbols, some words carry connotations and others do not (argon-lighted = lighted by argon; neon-lighted = vulgarly lighted by neon). But one of the flaws of this work as a work (not, in a distinction of the kind Mr. Cohen might applaud, of the theory as a theory) is that too much of it is devoted to definitions, re-definitions, and explanations as to why a particular definition is being tightened or broadened at this particular point.

Cohen does not, of course, resolve all the Marxian difficulties, and perhaps only a born-again Marxist could accept everything that is said, but this reviewer's slight discomfort stems from a feeling that we have here a possible but not a necessary construct. If we allow the author every one of his conditions and definitions it can all be made to fit, but suppose we tighten this or broaden that. . . ?

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WINSTON W. CROUCH. *Organized Civil Servants: Public Employer-Employee Relations in California*. Pp. 312. Berkeley: University of California Press, 1978. $15.00.

Organized Civil Servants "is an analysis of the development within the California political system of public policies concerning government employer-employee relations" (p. 3). Crouch seeks to substantiate the following theme: "the making of public policy is bound to follow an incremental process when it involves so complex a set of changes as the adoption of collective bargaining in a state and local government employment system previously committed to civil service procedures" (p. 7). He examines how the state of California has dealt with three areas of tension in the public service: (1) "Foremost, is the matter of tension between the civil service system and the proponents of the collective bargaining method of determining compensation and working condition" (p. 9); (2) tension between those who prefer a single, comprehensive statewide policy and those who do not (p. 9); and (3) tension arising from "the struggle to choose a plan that encompasses all government employers and their employees in California, in which the machinery for decision making and dispute settlement is primarily dominated by the state . . ." (pp. 10–11).

The book consists of nine chapters. Chapter One presents a general overview. Chapters Two and Three examine public employee associations and unions, respectively. Public employee associations in California began as nonaffiliated employee associations. Crouch examines the history and development

of nonaffiliated employee associations, the factors which cause them in the California public employment scene, and the changes in the associations brought on by competition with nationally affiliated unions. He then presents a brief general history of several national unions and their attempts to affiliate with California public employee associations. The AFL-CIO, AFSCME, Services Employees International Union, American Federation of Teachers, International Association of Firefighters, International Union of Electrical Workers, and several others are analyzed in this context.

Chapters Four, Five and Six recount the legislative and judicial actions that have opened the door for public employees, individually and through organizations, to use political action to pursue goals relating to public employment policymaking and collective bargaining. Chapter Seven analyzes the principal political methods used by California public employees. Chapters Eight and Nine examine the efforts to arrive at an expression of state policy regarding strikes and the legislative history relating to the establishment of a state policy governing public employer-employee relations.

Crouch argues that three sets of ideas have been influential in state and local administration in California: "administrative management in a separation of powers framework, professionalism, and a civil service merit system of employment" (p. 10). In other words, city and county administrators do not exert total control over matters relating to public employment policy. They must share power with public policy making bodies. Professional civil servants have a dimmer view of unions and formal employer-employee relations than others in the public work force. Organized public employees have utilized the civil service merit system for grievances but have pushed for collective bargaining in areas of compensation, fringe benefits, and working hours.

This work presents a descriptive account and analysis of the history and development of public employer-employee relations in the most populous state in America. It is highly interesting, a worthwhile contribution to the field of public employer-employee relations, and should stimulate further interest and research in comparative public employer-employee relations across state lines.

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JOHN KENNETH GALBRAITH and NICOLE SALINGER. *Almost Everyone's Guide to Economics*. Pp. ix, 162. Boston, MA: Houghton-Mifflin, 1978. $8.95.

Because the format of this delightful work is unusual in economics literature, and because the name Nicole Salinger is not well-known in the world of economists, a brief comment on the style of the book is in order. Nicole Salinger is a French reporter who, pretending not to know much about economics, asks Professor Galbraith questions concerning economic theory and economic policy. Thus, the format of the book is one of questions and answers on such topics as: economic systems, the role of the modern large corporation, money and monetary policy, the international economy, and economic growth and power. The book purports to provide the economic neophyte with a step by step explanation of economic theory and policy that results in an understanding of such complex economic matters as: classical versus Keynesian economic systems, the role of markets versus the strength of large corporations, the role of monetary versus fiscal policy, the functions and performance of multinational corporations, and the influence and power of institutional factors and politics.

After all too many cocktail parties with the economics amateur, this reviewer believes that Galbraith's current presentation cannot be fully appreciated or understood without a fairly strong background in economic history, history of economic thought, comparative economic systems, industrial organization, as well as monetary and

fiscal policy. This does not mean that the noneconomist reader will believe this work is difficult to understand or that the work is laborious to complete. Quite the opposite is true. Because of Galbraith's clever and lucid exposition, the noneconomist will unrealistically believe both that he comprehends all of the economic theory presented and that he can solve the economic policy dilemma faced by policymakers in most industrialized countries.

The main thrust of this book is Galbraith's belief that because current economic orthodoxies are not reliable and because current economic policies resulting from accepted theory are not applicable, developed countries are in serious socioeconomic trouble. Galbraith first explains the development and the theoretical foundations of capitalism, socialism, and Marxism. This discussion includes the economic views of those outside the mainstream of economic thinking, such as the German Historical School, the American Institutionalists, and the Fabians. His concentration then turns to capitalism in the industrialized economies of the West. For anyone familiar with Galbraith's other writings, the conclusion is known in advance—the market system no longer works because of the economic and political power of large corporations, defense contractors, unions, and governments. It is the combined actions of these groups that causes inflation and unemployment and an "improper" distribution of income and wealth.

Galbraith's explanation of the failure of the market system provides the foundation for his explanation of the roles of monetary policy and fiscal policy. Again, the same institutional factors that cause the market system to fail cause monetary and fiscal policy to fail in the context that the application of these economic tools results in economic inequities and unemployment. Galbraith's solution to this theme of economic crisis is a policy of price and wage controls. This time there will be a new designation—Comprehensive Incomes and Prices Policy or CIPP. To Galbraith, the CIPP will be an institution and a way of life in industrial countries as long as economic power groups exist.

Whether one agrees or disagrees with Galbraith's economics, his writing is always enjoyable because of his wit and satirical retort.

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JOSEPH HARRISON. *An Economic History of Modern Spain*. Pp. x, 187. New York: Holmes & Meier, 1978. $22.00.

The author is lecturer in Economic History at the University of Manchester and has previously written on various facets of nineteenth and twentieth century Spanish economic history. The present work is based largely on the efforts of a "remarkable school of Spanish historians" whose work has appeared in the past twenty years. Harrison, therefore, has given us a much needed synthesis, in English, of current Spanish scholarship.

In eight tightly written chapters, the author examines the Spanish economy from the early 1700s to the latter 1970s. He places the eighteenth-century demographic revival of Spain within the extremely varied types of land tenure, posits the poverty of the core internal markets, and contrasts them to the more prosperous peripheries of the Basque country and Catalonia. He goes on to show that the early nineteenth century liberal reformers reinforced latifundism, between 1820 and 1855, by their abolition of seignorial tenure and the alienation of ecclesiastical and other corporate properties. Furthermore, the endemic lack of capital prevented agricultural modernization and fettered Spain to an inefficient concentration on cereals production, costly to the rural and urban masses and, in turn, further inhibiting the growth of strong internal markets.

Successive chapters explain the inability of Spain to develop (save in the periphery) a viable industrial base due to the ineptitude of official policies

(1830–1875), which drove available capital either into land purchases or into excessive (1855–1865) investment in unprofitable railways. Even in mining, where Spain enjoyed natural resources (notably in copper and lead), they were dissipated by irrational and undercapitalized exploitation, and by eventual foreign domination.

The successful exploitation of Basque iron works and Catalan textiles by the last two decades of the nineteenth century marked the establishment of an industrial base in those regions, a model which would eventually extend to some portions of the rest of the Peninsula by 1914. The impact of World War I is viewed by Harrison as definitive in bringing capitalism to Spain. By 1917 it brought expansion to her industries, huge profits to her landlords, and serious fissures to her society. The rise of broadly based organized labor, Socialist or Anarcho-Syndicalist, can be seen as an index of the country's variegated economies as well as of its profound social malaise.

The establishment in 1931 of the Second Republic (with whose goals Harrison is openly sympathetic) promised to deal once and for all with the land question, yet could not. The milder repercussions of the depression on Spain notwithstanding, the extreme political polarization of the early 1930s degenerated into the Civil War by 1936.

Franco's victory in 1939 ushered in two decades of nearly disastrous experiments with economic autarky. The reversal of autarky, the infusion of foreign credits and investments, and further expansion of the industrial base absorbed 5 million peasants into the labor force (1940–1975), cutting down to less than 23 percent the agricultural share of the work force by 1975.

Harrison is skeptical of the "Spanish economic miracle" of the 1960s. The persistence of extreme regional imbalances and the yet extant anachronisms in land tenure do not augur well for the immediate future of the economy. Despite its small size and large subject, this book is an indispensable point of departure. The bibliography, glossary, and illustrative tables, are all first-rate.

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URSULA K. HICKS. *Federalism Failure & Success: A Comparative Study*. Pp. ix, 205. New York: Oxford University Press, 1979. $19.50.

This is a valuable book for providing understanding of the successes and failures of federalism. Technically, there are a few flaws in the book, particularly when it comes to understanding the federal system of the United States. (The author makes the typical British mistake in defining the U.S. Supreme Court as the "watch dog" of the other two branches of government).

The book presents a series of historical case studies of modern federations, identifies successes and failures, and follows them through the interplay of economic, political, and social influences. Most of the federations discussed are contemporary; either they are still in existance, or have existed in recent years.

Part One gives a brief history of federation. While this "essence" of federalism may be too brief for the specialist, the author is concise and moves quickly to the "model" of modern federal government, the United States. Dr. Hicks also correctly and concisely defines certain concepts important to understanding federalism. For example, the primary difference between a federation and any form of unitary government is that in a federation the conduct and care of local government is within the responsibility of the states; the central government has no constitutional relationships with them. But no matter the design of the system, historical and constitutional factors are important elements in successes and failures of political systems.

Part Two consists of case studies: two cases where attempted federations never materialized; two cases of short-lived federations which never attained

nationhood; one case of total failure (the British Central African Federation); one case where there was success and then failure (the Indian Subcontinent); one case of failure; and two successful Federal Systems (Australia and the Swiss Confederation).

In Part Three Dr. Hicks shifts to more economic analysis, which is her field. Her work seems to suggest that the success of federations may rest on economic factors (economic and trade alliances) more than on constitutional, cultural, racial, or religious factors, or on the after affects of colonalism as developed in the case studies.

Perhaps the most important section of the book for contemporary use is the section on Nigeria. Nigeria is not only a new and developing nation, but it is also—for Africa and the Third World—rich in natural resources, notably oil. Both academic and popular readers should not miss reading this section, and will find it enhanced by the fact that Dr. Hicks is an interesting writer.

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DIANE LINDSTROM. *Economic Change in the Philadelphia Region, 1810–1850*. Pp. ix, 255. New York: Columbia University Press, 1978. $16.50.

Diane Lindstrom argues that during the first half of the nineteenth century, the Philadelphia region was able to industrialize much faster than other regions because of the emergence of a large domestic market dominated by interdependent local trade. She claims that national integration did not occur until after 1840 and that eastern producers did not sell the bulk of their output in southern and western markets. Sectional specialization, not mutual economic dependence among regions, led to a steady climb in the demand for locally produced products by contiguous counties surrounding Philadelphia.

The key elements in this eastern demand model were higher rural per capita consumption of nonhousehold manufactured goods and urbanization. Lindstrom attributes the rise in consumption to higher hinterland incomes and lower priced products within the region. Output growth occurred mainly in the extractive (iron, coal) and manufacturing industries. Aided by an improving transportation system (canals), growth occurred at a faster pace than it would have in the absence of a viable domestic market.

Lindstrom couches her analysis in terms of neoclassical economic theory. She approaches the analysis of economic development as if it were a purely economic phenomenon and fails to identify what constitutes economic development. Unfortunately, this oversight reduces the significance of her findings. Yet it is not surprising since her description of economic growth in the region relies heavily on at least two assumptions of neoclassical theory: competitive markets and factor mobility. In the best of circumstances, the utility of neoclassical theory depends upon whether it captures the decisive variables underpinning the process of economic development and the extent to which the assumptions of the model correspond to the historical record. On both points her evidence is weak.

Lindstrom fails to establish the conditions whereby competitive markets came into existence and merely states that they existed. Additionally, she does not consider the impact which changes in political, cultural, and social conditions might have had on the pattern of economic development.

In the end, this is a flawed book. At times the reader is confronted with statistical tables and figures ad infinitum. The continuity of Lindstrom's argument thus becomes confused in the maze of statistics used to verify her hypotheses. While this book certainly deserves close scrutiny by students of the antebellum period, it adds little to our general understanding of the process of economic development.

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LEONARD TIVEY. *The Politics of the Firm*. Pp. ix, 196. New York: St. Martin's Press, 1978. $19.95.

Suppose with the author that economists have more or less missed the boat on the nature of the firm as a purchaser of inputs and producer of output. Rather, the firm is an independent trading body—a legal entity with its own system of internal government. It is then possible to view various seemingly disparate forms as species within the genus "firm." Along the lines of this proposal Tivey considers the following species in some detail: capitalist firms, public corporations, government companies, cooperative, codetermination, workers' control, and reformed capitalist firms.

These are all firms in Tivey's taxonomy but they differ in terms of internal rule. Indeed, they are presented as social experiments concerned with the appropriate structure of production relations. And, in an abbreviated fashion, it is shown that the various firm forms have "ideologies" which "legitimate" them. This, in brief, is the theoretical context of the book and, although a Nobel prize was recently issued to a nontraditional theorist of the firm, and the conception of property employed is firmly rooted in the work of (conservative) economists, Tivey is correct in castigating orthodox economists for their neglect of the political dimension.

The politics of *The Politics of the Firm* are more interesting than is the theory and they fall squarely within the international neoconservative movement which "legitimates" the viewpoint of the book. Consider Tivey's categorization of firms on the basis of home rule. Of the seven firm forms mentioned above, only the two state forms fall under the heading of exocratic while the remaining five proceed under the more benign appellation of endocratic. Economists view the capitalist firm, even in its monopoly form, as exocratic: the capitalist firm is managed by managers for profit which merges it in wider market relationships with an internal logic.

Tivey's typology ignores this. A capitalist firm is endocratic only in the trivial sense that whenever it is observed so also will a managerial stratum be found. But Tivey does not wish to throw out the capitalist firm along with the oppressive state and, hence, it is endocratic. Further along, and much below the general tenor of the book, it is revealed that meaningful workers' control is chimerical. On the one hand, borrowing from Schumpeter, it can only lead to "zealocracy," and on the other, its realization would produce one-dimensional men—Marcuse convoluted.

Although the book is strong in certain aspects, especially the third chapter, the politics serve to blur rather than illuminate the nature of social reality. The neoconservative distrust of the state is well-founded and Lenin's imagery of socialism as a giant post office is less than comforting. But Tivey's plea for diversity and tolerance among firms in mature capitalist societies amounts to a defense of monopolies.

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ERIK OLIN WRIGHT. *Class, Crisis and the State*. Pp. 255. New York: Schocken Books, 1978. $13.95.

The purpose of this tendentious volume is to present a possible methodological strategy embodying Marxist perspective for analyzing and understanding "how the historically specific contradictions of advanced monopoly capitalism pose new possibilities and constraints for socialist movements" (p. 26). By focusing on the crisis of modern capitalist industrial states within a Marxian paradigm, the author finds that there is not only considerable evidence for the transformation of these socioeconomic systems into socialist structures, but also that the selection and interpretation of historical data from capitalist societies is quite conducive to the development of a distinctive methodological tool consistent with the demands of Marxist theory.

It is apparent from the introductory chapter through the main body of the work that the author has two parallel

concerns: first, a substantive one, which is portrayed through his dissection of modern capitalism wherein he isolates and expands on various structural and policy problems that are perceived as "contradictions" in the Marxian vein; and, second, a methodological one, which is communicated to the reader through the author's constant effort to filter facts through a Marxist screen while at the same time applying that aspect of positivists' logic that would lead to strategies for generating testable generalizations.

In this latter regard the author wishes to "engage in debate with mainstream social theory and to develop a style of empirical research which advances Marxist theory" (p. 10). The author articulates his conviction quite convincingly: that social research based on a Marxist conceptual scheme can be both as rigorous and as fruitful as that premised on the positivist framework; and that research generated by a Marxian orientation can present not only a challenge but an alternative to the positivist hegemony in social science.

As a monograph devoted to the dual task of substantive analysis and methodological refinement, this well-researched and extensively documented volume by Wright is incisive in its discussion and in a large measure is profusely insightful and erudite. The book does not address itself primarily to empirical investigation of specific historical or structural problems; rather, it is concerned with the formulation of theoretical preconditions for empirical research guided by Marxist theory. The author argues that in this manner theory and facts can be brought together leading to the development of a Marxist theoretical structure—a theoretical structure that can become clearly delineated as a distinctive enterprise in social scientific empirical research.

In the pursuit of his objectives, the author remains faithfully close to his goals, demonstrating systematically and methodically his grasp of the issues in advanced capitalist countries that enhance conceptual clarification in the construction of a paradigm consonant with the Marxist world view. Many writers in the West have decried Marxism as having no utility at all in contributing to social research, but Professor Wright disagrees with that point of view, and in this work attempts to provide linkages between theoretical propositions and concrete research agendas. He argues that once the ambiguity of Marxist theory is penetrated, research strategies could be formulated for an empirical analysis of the real world.

This monograph is a meticulously executed piece of work. The conceptual scheme developed in Chapter One provides the framework for the author's rationale in his selection of concepts and events that he discusses with precision and rigor. The core of the study consists of clarifying and conceptualizing the major elements of the Marxist universe, namely the notions of class, capital, and bureaucracy, and then using these concepts as tools in analyzing social structure and socio-economic trends in modern capitalist societies. The last chapter is devoted to a discussion of what the socialist strategies ought to be in capitalist countries and it is in this chapter also that the author gives his prognostication for the future of monopoly capitalism. Besides presenting his arguments logically and coherently, the author has made extensive use of models some of which are mathematical in nature.

While some aspects of the writing may be turgid, the overall product is impressive. Of particular value are the footnotes at the bottom of each page, which makes reading somewhat easier for those interested in references and further pursuit of a given topic. As a work of theory in social science this volume certainly is not for the light reader.

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ERRATUM

The review: James Krier and Edmund Ursin, *Pollution and Policy: A Case Essay on California and Federal Experience with Motor Vehicle Air Pollution* (Berkeley: The University of California Press, 1977), which appeared in the May issue, Vol. 443 of THE ANNALS, was written by John S. Robey.

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ANNALS

OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE

Contemporary Issues in Sport

September 1979

BOOK DEPARTMENT: NEW LITERATURE IN THE FIELD OF THE SOCIAL SCIENCES

Important Notice from The President to All Members Regarding The Annual Meeting

The membership of The American Academy of Political and Social Science is world-wide and is distributed throughout the United States, with many members on the west coast and in the midwest. Yet, the annual meetings are held in Philadelphia.

In order to give recognition to members located in other regions of the country, the Board of Directors has suggested that an annual meeting be held elsewhere. Moreover, we are also considering a change in the format of the meetings in order to give members and delegates more opportunities for discussion and for presenting their own comments on the themes of the meetings. Panel discussion, workshops, roundtables are being considered.

In order to plan properly for these changes, we shall defer the 1980 meeting. Hence, the next meeting will take place in 1981. Announcements will be made when the plans are settled.

Meanwhile, I welcome any suggestions about topics, format or location of the annual meeting, and trust that we shall be able to increase the vitality and contributions these meetings can make to the discussion and dissemination of significant political and social issues.

Marvin E. Wolfgang
President

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RICHARD D. LAMBERT, *Editor*
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PREFACE

Just recently a crowd estimated at 250,000 gathered in downtown Seattle to honor its professional basketball team which had just won the World Championship. Each January, 80 million people watch the Super Bowl, the contest to determine the champion of the National Football League. Every day news accounts report the signing of players' contracts in excess of one million dollars. Just as often reports are filed on the illegal recruiting of high school and college athletes, violence on and off the playing field, illegal payments to amateurs and efforts to politicize the Olympic Games. These examples tell us that sport permeates the lives of Americans and populations in other areas of the world. Nothing else save a struggle for survival seems to be able to stimulate such emotion, attraction, interest, adulation and mania as do sports. There are few persons whose lives are not touched by some aspect of the sporting life.

It is only recently that scholars and insightful practitioners have been critically looking at sport. For a long time the academic community rejected the study of sport as frivolous intellectual inquiry. Why should someone waste his time studying childlike games such as baseball or basketball when he/she could be researching problems of greater significance? By the same token any athlete or journalist who would dare criticize the sporting enterprise would suffer a similar rejection. The athlete would be viewed as a troublemaker and the writer would be denied access to the locker room. After all, sports represent a quasi-religion, intertwined with all other institutions and reinforced by a Judeo-Christian value system. Sport is a direct representation of society. Some say it is a microcosm, others say a reflection, of society. It is neither; it is society.

What we have discovered is that sport is serious activity which deserves the scrutiny of scholars and critics. Whatever is good or bad, valued or devalued, fair or foul in society is found in sport. For every athlete who rises to the top in the tradition of the American Way there are others who are restricted for the reasons other than lack of motivation. Turning a profit at the expense of the consumer is a practice not limited to manufacturing or industrial entities. Sport is serious business. Sport is not at all equivalent to the Sunday afternoon pick-up game spontaneously organized by whomever is present. In fact, there is rare opportunity for this within the contemporary sport, which emphasizes high degree of organization, specialization, and selective recruitment. If you are going to play ball today, you had better be good and an organization man.

This issue includes the contributions of well known academics and participants in sport. Each is writing in an effort to dramatize areas in sport which need critical attention. Their writings illustrate that many of the myths associated with sport (e.g. it is good for the character development of youth) are based on questionable premises, both empirical and ideological. I would like to thank each of the contributors for their efforts and *The Annals* for willingness to publish an issue on this topic.

JAMES H. FREY

ANNALS, AAPSS, 445, Sept. 1979

Sport and the Social Sciences

By GEORGE H. SAGE

ABSTRACT: Sport is one of the most ubiquitous activities of modern contemporary society. The pervasiveness of sport can be seen by the enormous amount of primary and secondary involvement in it by people of all ages and social strata. Sport penetrates into and plays a significant role in all of the social institutions. The functions of play, games, and sport is a major theme running through much of the work of social scientists. Although there is no definitive list, there are seven major categories of functions of play, games, and sport: instinct, developmental-cognitive, mastery, social integration, socialization, social control, and personal-expressive. There is a substantial body of literature in the social sciences discussing the importance of each of these functions.

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ALTHOUGH the twentieth century has been called "The Century of" many different things, perhaps no other phenomenon deserves this distinction more than sport; indeed, the twentieth century can legitimately be called "The Century of Sport," since it has become one of the most ubiquitous activities of contemporary society. As sociologists Eldon Snyder and Elmer Spreitzer note: "Sports permeate all levels of social reality from the societal down to the social psychological levels. The salience of sport can be documented in terms of news coverage, financial expenditure, number of participants and spectators, hours consumed, and time samplings of conversation."[1] Given the pervasiveness of this human activity, it is obvious that it deserves serious, systematic study. This issue of *The Annals* illustrates the growing acknowledgement of the legitimate scholarly study of sport by political and social scientists. Two general objectives guided the writing of this article. First, to illustrate how thoroughly sports permeate modern society, the multidimensionality of sport involvement is described and how it is woven into the social fabric through modern social institutions is discussed. In the second section of the paper, since the topic of "function" is the most persistent theme about sport throughout the social sciences, the functions that social scientists have proposed for play, games, and sport are enumerated.

THE PERVASIVENESS OF SPORT

Primary and secondary involvement

In America virtually everyone is touched by sport. Involvement, either as a participant or in more indirect ways, is almost considered a public duty. Primary involvement—meaning actual participation—in sport begins for many children while they are still in elementary school. Youth sports programs initiate boys and girls into the world of organized sport at seven or eight years of age, and if they show a little interest and aptitude for sports they will likely pass through several sports programs on their way to adulthood. There are an estimated 20 million boys and girls now participating in youth sports programs.[2]

The programs mentioned above are sponsored by community, club, or service groups, but American schools also provide abundant opportunities for sports involvement. Most states have legislation requiring the teaching of physical education through high school, and sports activities form the basic curriculum of these programs. In addition to the required physical education classes, most schools throughout the country sponsor interschool athletic programs, beginning in the junior high school and continuing through college.

Most other countries throughout the world have nothing comparable to the youth, interscholastic, and intercollegiate sports programs found in America, but sports clubs flourish in many countries. For example, in West Germany one-fourth of the population belongs to sports clubs, and in many respects this system provides an excellent model for lifelong education. Clubs are open to all, regardless of age, sex, social class, religion, or ability. They integrate recreation, physical education, and quality of performance as a form of community interaction, fostering sports and physical education out-

1. Eldon E. Snyder and Elmer Spreitzer, "Sociology of Sport: An Overview," *The Sociological Quarterly* 15 (Autumn 1974):468.

2. Jerry R. Thomas, ed., *Youth Sports Guide for Coaches and Parents* (Washington, DC: AAHPER Publications, 1977).

side the schools and making them available to all members of the community.[3]

Throughout the world, leisure-time participation undoubtedly produces the greatest amount of primary sport involvement. In the United States there has been an increase in reported leisure time over the past generation.[4] Accompanying this trend, Meyersohn claims that there has been a "democratization of leisure," meaning that there is now a greater use of discretionary time for cultural pursuits, including sports, which were formerly only the province of the rich.[5] Notwithstanding these trends in leisure time, studies in several countries show that while daily participation in sport is comparatively low and hardly comprises a regular free time activity for the adult population in any country, cumulatively leisure sport participation numbers in the billions worldwide. In the United States alone there are 24 sports whose participants number five million or more annually, with swimming accounting for 104 million and bowling 44 million.[6]

By far the greatest secondary involvement in sports is as a spectator, either by actually attending sporting events or by viewing them on television. Professional football attracts some 16 million paid admissions each year, and Major League baseball 32 million, but horseracing, with 82 million spectators, and auto racing, with 49 million, attract the most spectators.[7] Worldwide, the largest TV audiences have been attracted by sports events; audiences in excess of 800 million people watched the last Olympic Games and World Soccer Championship. Robinson reported that 30 percent of Americans follow sport on television each day, and Kenyon reported that some 50 percent of those in his study listened to sport on the radio or watched sport on television each week.[8] The three major networks in the United States telecast more than 1200 hours of sports annually.[9]

SPORT AND SOCIAL INSTITUTIONS

Economy

In addition to primary and secondary involvement, sport also penetrates into and plays a significant role in the major social institutions. The economic impact of sport is awesome; there is no doubt that sport is big business with a commanding position in the entertainment industry. Americans spent about $160 billion on leisure and recreation activities in 1977.[10] Ticket sales at sports events, both amateur and professional, reached $2 billion in 1978.

3. Val D. Rust and Terry Schofield, "The West German Sports Club System: A Model for Lifelong Learning," *Phi Delta Kappan* 59 (April 1978):543–546.

4. John P. Robinson, "Changes in America's Use of Time, 1965–1975," *Report of the Communication Research Center* (Cleveland State University, 1976).

5. Rolf Meyersohn, "Is There Life After Work?" *Saturday Review*, 4 May 1974, pp. 14–16.

6. "How Americans Pursue Happiness," *U. S. News and World Report*, 23 May 1977, p. 63. Also see A. Szalai, ed., *The Use of Time* (Paris: Mouton, 1972).

7. "How Americans Pursue Happiness."

8. John P. Robinson, "Daily Participation in Sport Across Twelve Countries," in *The Cross-Cultural Analysis of Sport and Games*, ed. Gunther Luschen (Champaign, IL: Stipes, 1970), pp. 156–173; Gerald S. Kenyon, "The Significance of Physical Activity as a Function of Age, Sex, Education, and Socio-Economic Status of North American Adults," *International Review of Sport Sociology* 1 (1966):41–54.

9. "The Affluent Activists," *Forbes* 118 (1 August 1976):22. See also William Leggett, "He Was Right on the Button," *Sports Illustrated* 44 (23 February 1976):48.

10. "How Americans Pursue Happiness."

Although growth in an industry is not necessarily a valid economic indicator of increasing profits, the proliferation of professional sports franchises certainly indicates that professional sports is one of the most successful and expanding industries in the United States. During the past 20 years, professional sports teams have multiplied at a remarkable rate. The National Hockey League began the 1960s with six teams and the 1970s with 14. During the 1960s professional basketball proliferated from one league to two and from 12 teams to a total of 22 teams when the leagues merged in the mid-1970s. Major league baseball broke a longstanding tradition and went from 16 to 24 teams; professional football witnessed the birth of a new league, the merger of that league with the NFL, and a new 28-team league, thus more then doubling the teams which existed in 1960.[11]

Professional athletes' salaries reflect the economic value placed on sports. A minimum salary of over $30,000 is guaranteed in several sports and annual salaries of over $100,000 are not uncommon; indeed, in 1978 the California Angels had nine players earning $100,000 or more. A few of the so-called "super stars" receive salaries in excess of $300,000, and several have contracts in excess of $5 million. The average salary in the National Football League in 1978 was over $62,000, while professional golfers compete for over $8 million in prize money each year.[12]

Professional sports franchises are worth anywhere from $5 million to $40 million. There are several reasons for their value, one of which is that they are profitable—the Los Angeles Dodgers made an estimated $9 million after taxes in 1978. But few professional sports franchises could exist without television revenue. Television contracts with professional sports is a billion dollar a year business.[13]

The big business of sport is manifested in other ways. Over 170,000 student-athletes participate in National Collegiate Athletic Association sponsored competitions in 35 different sports each year at an investment of 5 billion dollars.[14] Sport, in the form of participant recreation, is often promoted by companies for their employees. Industry buys more sports goods and equipment than United States schools and colleges combined, and they schedule more entertainment than the nation's night clubs.[15] Even gambling on sports is a major economic activity; estimates of the amount of money that Americans wager on sports range from $15 billion to $50 billion per year. Between 12 and 15 million Americans bet on pro football games on any given weekend.

Polity

Sport is a prominent feature of American politics. Politicians recognize the pervasiveness of sport and make every effort to use it for political gain. Recent presidents have publicly associated themselves with sports. Nixon's telephone calls

11. For a discussion of the financial aspects of sport, see Ray Kennedy and Nancy Williamson, "MONEY: The Monster Threatening Sports," *Sports Illustrated* 49 (17 July 1978):29–88. Also see *Sports Illustrated* (24 July 1978):34–49 and (31 July 1978):34–50.

12. *Ibid.*

13. *Ibid.*

14. *The Sports and Recreation Programs of the Nation's Universities and Colleges*, Report Number Five. (Kansas City: The National Collegiate Athletic Association, 1978).

15. "How Americans Pursue Happiness."

to the locker rooms of sports victors garnered publicity for him as well as for sport. Gerald Ford capitalized on his background as a football player at the University of Michigan. And Jimmy Carter's forays into softball are clearly designed to legitimize his affiliation with sport. But presidents are only the most visible politicians to be linked with sport. Politicians from the local level to the national level capitalize as much as possible on sport because not only is sport a pervasive component of American society but it represents what is good, moral, and true. Thus, a connection with sport places the politician on the side of righteousness.

The linking of politics and sport extends into international affairs as well. Today, most countries of the world use sport as an instrument of international policy to some extent. Communist countries make quite clear their motive for supporting and promoting national and international sports: sport is used as a visible example of the success of their political-economic system. As Morton says in his book *Soviet Sport*: "The Soviets have made serious business out of sport competition. . . . They have forged a direct propaganda link between sport triumphs on one hand and the validity of a social system on the other."[16]

Perhaps the most obvious example of blatant sport diplomacy is in the German Democratic Republic.[17] The Communist countries are not, of course, the only countries that practice sports diplomacy. Canada has undertaken a federally financed program of support to amateur athletics designed to enhance the caliber of athletes and thus bring prestige and respect to the nation.[18] In the United States, although the federal government has not directly supported American participation in the Olympic Games, untold millions of dollars are spent to assist indirectly the Olympic team so that the United States may impress other nations throughout the world. The *Final Report of the President's Commission on Olympic Sport* issued in 1977 recommended unified control of amateur sport in the form of a Central Sports Organization and called for a federal outlay of $218 million in funds and facilities and another $83 million annually for operating costs.[19]

Education

Sport and education are inexorably intertwined in American society. According to statistics recently compiled by the National Federation of State High School Associations, nearly 6.5 million boys and girls participate on interscholastic athletic teams each year.[20] The significance of these programs in the life of high school students is best exemplified in James Coleman's statement that a visitor to a typical American high school "might well

16. Henry W. Morton, *Soviet Sport* (New York: Collier Books, 1963), p. 82; more recently the same point is made in James Riordon, *Sport in Soviet Society* (Cambridge: Cambridge University Press, 1977).

17. For descriptions of sport in East Germany see Jerry Kirshenbaum, "Assembly Line of Champions," *Sports Illustrated* 45 (12 July 1976):56–65 and Brian Chapman, "East of the Wall," *Runner's World* (March 1978): 60–67.

18. See *Report of the Task Force on Sports for Canadians* (1969).

19. President's Commission on Olympic Sport. *The Final Report of the President's Commission on Olympic Sports: 1975–1977.* (Washington, DC: USGPO, 1977).

20. National Federation of State High School Associations, *1978 Sports Participation Survey* (Elgin, IL: National Federation of State High School Associations, 1978).

suppose that more attention is paid to athletics by teenagers, both as athletes and as spectators, than to scholastic matters. He might even conclude . . . that the school was essentially organized around athletic contests and that scholastic matters were of lesser importance to all involved."[21] Although Coleman's comments were made almost 20 years ago, they are as appropriate today as when they were written. Colleges and universities carry on the interschool sports programs; indeed, for many of these institutions the intercollegiate athletic program is the most publicly visible part of the institution.

Religion

While there may seem to be little in common between sport and religion, actually each of the social institutions is making inroads into the traditional activities and prerogatives of the other. Churches have had to alter their weekend services to accommodate the growing involvement in sport. Frank Deford, in a three-part series on "Religion in Sport" for *Sports Illustrated*, noted that, "the churches have ceded Sunday to sports. . . . Sport owns Sunday now, and religion is content to lease a few minutes before the big games."[22] Contemporary religion uses sport by sponsoring sports events under religious auspices and/or proselytizing athletes to religion and then using them as missionaries to spread the Word and recruit new members. The Fellowship of Christian Athletes and Athletes in Action are two prominant national organizations that employ these techniques.

Literature and drama

Sport is even making a considerable impact on the literary and drama fields. With the rise in mass sport interest, there has developed a trend toward serious writing about sport, and in the past decade American novelists have increasingly employed sport themes in their writing.[23] Indeed, over 30 novels since 1960 have either referred to football or used it as a central theme.[24] Perhaps the greatest impact of sport in the literary field, however, is coming from former athletes and sports journalists. Within the past decade there has been a virtual deluge of books written by professional athletes (most are actually ghost written) who describe their experiences in sports. A number of former athletes have written "kiss and tell" books which have either mocked their sports experiences or have been highly critical of them.[25] The underpaid, unheralded sport journalist has also gotten into the publishing wind-

21. James S. Coleman, "Athletics in High School," *Annals of the American Academy of Political and Social Science* 338 (1961):34.

22. Frank Deford, "Religion in Sport," *Sports Illustrated* 44 (19 April, 26 April, 3 May 1976).

23. For examples of writers' treatment of sports in literature, see Robert J. Higgs and Neil Isaacs, eds., *The Sporting Spirit: Athletics in Literature and Life* (New York: Harcourt Brace Jovanovich, 1977) and Henry B. Chapin, *Sports in Literature* (New York: David McKay, 1976).

24. D. Burt, "A Helmeted Hero: The Football Player in Recent American Fiction," Presented at the Convention of the Popular Culture Association, 1975.

25. See, for example, Dave Meggyesy, *Out of Their League* (New York: Paperback Library, 1971); Bernie Parrish, *They Call it a Game* (New York: New American Library, 1971); Gary Shaw, *Meat on the Hoof* (New York: St. Martin's Press, 1972).

fall of sports books in recent years, and several have written what might be called exposé or muckraking books.[26]

Sport has even invaded broadway and shows evidence of making a happy marriage with drama. Several years ago, the story of Jack Johnson, the first black heavy-weight boxing champion, came to life in the play *The Great White Hope* and became an immediate success. This was followed by several other dramas about sport. Jason Miller's grimly funny account of a high school basketball team's 20th reunion, *The Championship Season*, was voted the best play of 1972 by the Drama Critics Circle. In 1973, *The Jockey Club Stakes* and the *Changing Room* became two of the most popular plays in New York. There are definite indications that sports themes are increasingly being used in motion pictures. Movies such as *Rollerball*, *Slap Shot*, *Rocky*, and *Black Sunday* are only a few of the movies of the past few years with a sports motif.

THE FUNCTIONS OF SPORT

Although the study of sport has yet to become widespread in any of the social sciences, the foundation has been laid over the past century, and in the past decade academic interest in sport has become both acceptable and popular. As the social sciences have attempted to come to grips with sport, one question cuts across the disciplines: Why? Why do people play and engage in games and sports? Each social science has approached this question from its own unique conceptual and theoretical vantage point and, predictably, each has formulated different answers about the functions of play, games, and sports. However, the emphasis here is on the dimension of "function" rather than on specific social science disciplines.

There is always some danger of omitting or misrepresenting complex phenomena whenever one attempts to employ a system of categories, but for simplicity the notions about the functions of play, games, and sports have been classified into seven categories: instinct, developmental-cognitive, mastery, social integration, socialization, social control, and personal-expressive. This is not meant to be an exhaustive list of functions that have been advanced for sport; it constitutes a list of the most commonly identified functions.

Instinct functions

In the latter nineteenth century, at a time when the social sciences were just emerging as distinct scientific disciplines, Charles Darwin's evolutionary theory was at its peak of popularity. Scholars in all fields were examining its tenets for implications, and several instinct theories about the function of play were advanced. In his monumental *Principles of Psychology*, Herbert Spencer elaborated on the "surplus energy" theory of play, a notion that appears to have first been articulated by the 18th century German scholar, Friedrich von Schiller. But Spencer gave the theory an evolutionary twist, arguing that play evolved in humans because they had developed effective and efficient

26. See, for example, Leonard Shecter, *The Jocks* (New York: Paperback Library, 1969); Glenn Dickey, *The Jock Empire* (Radnor, PA: Chilton, 1974); Robert Lipsyte, *Sportsworld* (New York: Quadrangle, 1975).

means of meeting their basic needs, so they had much energy available which was dissipated in play forms.[27] Although intuitively appealing, this theory of play has been found rather inadequate on numerous counts, and few current social scientists take it seriously.

One of America's most famous early psychologists, G. Stanley Hall, advanced an evolutionary theory of play that came to be known as the "recapitulation theory." According to this theory, children's play was ontogeny repeating phylogeny. In other words, the play "stages" of children recapitulate the entire bioculture of humanity. Hall wrote: "The best index and guide to the stated activities of adults in past ages is found in the instinctive, untaught, and nonimitative play of children. . . ."[28] Thus, children reenact in play the interests and occupations in the order in which they occurred in their prehistoric and primitive ancestors. This view of play has been widely criticized and no longer has influential advocates in the social sciences.

Karl Groos, a philosopher by training, put forward a theory of the function of play that clearly had both a psychological and evolutionary orientation. Based on his studies of animal and children's play, Groos proposed that play is a preparation and practice for adult life.[29] His theory was firmly based on the principle of natural selection formulated by Darwin, which suggests that animals survive who are best able to cope with the prevailing environment, and whose offspring can adapt to changing conditions. For Groos, animals play because play is functional in the struggle for survival; play forms provide practice in perfecting skills needed in adult life. Play, then, is the generalized impulse to practice and perfect hereditary skills before a serious need to exercise them arises. According to Loizos, the most commonly accepted theory of play is the view that it is practice for adult activity.[30]

A related theory about instinctual behavior has frequently been advanced to support sport. The notion that aggression is a human instinct and thus its expression is inevitable underlies the work of a number of psychiatrists, psychologists, and ethologists. These scholars have suggested that sport serves as an excellent medium for expelling the aggressive instinct, and that sport should be encouraged since it provides humans with a way to "let off steam" in a socially wholesome way. J. P. Scott claims that "violent exercise is nature's tranquilizer." And, "In short, games and sport are training grounds for the control of aggression."[31] Ethologist, Anthony Storr, argues "that the encouragement of competition . . . is likely to diminish the kind of hostility which leads to war. . . ."[32] Finally, esteemed ethologist, Konrad Lorenz, claims that the "most important

27. Herbert Spencer, *Principles of Psychology*, 2 vol., 1855, 1872.

28. G. Stanley Hall, *Adolescence*, vol. 1 (New York: Appleton, 1904), p. 129.

29. Karl Groos, *The Play of Animals* (New York: Appleton, 1898); *The Play of Man* (New York: Appleton, 1901).

30. C. Loizos, "Play Behavior in Higher Primates: A Review," *Primate Ethology* ed. D. Morris (Garden City, NY: Doubleday, 1969), pp. 226–285.

31. J. P. Scott, "Sport and Aggression," Gerald S. Kenyon, ed. *Contemporary Psychology of Sport* (Chicago: The Athletic Institute, 1970), pp. 11–24.

32. Anthony Storr, *Human Aggression* (New York: Atheneum, 1968), p. 132.

function of sport lies in furnishing a healthy safety valve" for the aggression instinct.[33]

Developmental and cognitive functions

Social scientists, such as Jean Piaget, George Herbert Mead, and Jerome Bruner, have emphasized the function of play in the developmental and cognitive growth of children. As part of his work on the cognitive development of children, Piaget has analyzed play behavior in relation to the development of intelligence. According to him, each cognitive stage exhibits a unique type of play form. In the sensory-motor stage, play is characterized by performance of recently mastered motor abilities. During the preoperational phase of development, symbolic play dominates and the child engages in make-believe and sociodramatic activities, such as acting "as if" he/she were a mother, doctor, and so forth. Games-with-rules characterize the concrete operational phase, whereby collective symbols are promoted and reasoning and logical thought are nurtured, thus preparing the child for the final formal operational cognitive phase. Piaget stated that games-with-rules "mark the decline of children's games and the transition to adult play, which ceases to be a vital function of the mind when the individual is socialized."[34] For Piaget, the practice of rules and the consciousness of rules, both of which are associated with play and games, are largely learned in the play environment and thus serve valuable functions in the larger social context.

Mead saw play and games as serving an important function in the development of the self. A major concern of Mead was to determine how the individual obtains full development of self, and he proposed two general stages. Play, according to Mead, contributes to the first stage because in play the child takes on and acts out roles which exist in the immediate, but also wider social world; and in the course of acting out such roles he learns to "stand outside himself," and thus develop a reflected view of himself as a social object distinct from but related to others. Games, on the other hand, contribute to the second stage in the development of self. In a game, the child must take the role of every player, thus he must perceive what others are doing in order to make his own movements. As the child learns to take the attitude of the other and permits that attitude of the other to guide what he is going to do with reference to a common end, he is becoming an organic member of society. According to Mead: "The game is . . . an illustration of the situation out of which an organized personality arises."[35]

Erik Erickson, whose work is generally considered within the psychoanalytic tradition, emphasized the growth functions play may serve. Erickson proposed three stages of infantile play that are linked with his general theory of psychosexual development. The first play stage is called autocosmic and consists of "exploration by repetition of sensual

33. Konrad Lorenz, *On Aggression* (New York: Harcourt, Brace, and World, 1966), p. 281.

34. Jean Piaget, *Play, Dreams and Imitation in Childhood*, trans. C. Cattegno and F. M. Hodgson (New York: Norton, 1962), p. 168.

35. George H. Mead, *Mind, Self, and Society* (Chicago: University of Chicago Press, 1934), p. 159.

rceptions, of kinesthetic sensations, of vocalizations, etc." At the cond stage, the microspheric stage, ay is typically solitary, is characrized by play with toys, and occurs hen the child "needs to overhaul is ego." Play at this stage leads to leasure in mastery of toys and astery of traumas projected on em. Play in the macrosphere, the ird stage, occurs at nursery school ge and is "the world shared by thers" which "are treated as, are spected, run into, or forced to be orsie."[36]

Jerome Bruner, the most noted ontemporary American cognitive sychologist, is well known for his rolific research on cognitive growth nd the educational process. Bruner ontends that random play is the ain business of infancy and childood and is the precursor of adult ompetence. Play makes possible he practice of subroutines of beavior that later come together in useul problem solving and creativity.[37]

Mastery function

Sigmund Freud emphasized that hildren act out and repeat problematic situations in play in order to naster them.[38] According to this view, play enables the child to deal with anxiety evoking situations by allowing him to be the active master of the situation, rather than the passive victim. Freud also proposed that the wishes and conflicts of each of the psycho-sexual stages would be expressed in play. Finally, since Freud believed that all children aspire to adult status, they imitate adults in their play, thus making possible what is currently impossible and enabling them to master a frustrating situation.[39]

The studies of John Roberts and his collaborators comprise the most widely cited cross-cultural investigations of games, and their work emphasizes the function of games in cultural mastery. In their now classic article "Games in Culture," Roberts and his colleagues constructed a classification of games based on how the game outcome is determined. Three types of games are identified: games of physical skill, games of strategy, and games of chance. Based on their analysis of ethnographic data of 50 tribal societies, and applying their three-category classification of games, they concluded that games are expressive cultural activities similar to music and folktales; moreover, they are models of various cultural activities and thus exercises in cultural mastery. For example, games of physical skill are related to mastery of specific environmental conditions, games of strategy are related to the mastery of the social system, and games of chance are related to mastery of the supernatural.[40]

Building on this work, Roberts and Sutton-Smith, in a cross-cultural study of children's games, formu-

36. Erik H. Erickson, *Childhood and Society* (New York: Norton, 1963).

37. Jerome Bruner, Alison Jolly, and Kathy Sylva, eds. *Play. Its Role in Evolution and Development* (New York: Penguin, 1976).

38. Helen B. Schwartzman, "The Anthropological Study of Children's Play," *Annual Review of Anthropology*, vol. 5, ed. Bernard J. Siegel, Alan R. Beals, and Stephen A. Tyler (Palo Alto, CA: Annual Reviews, 1976), pp. 289–328.

39. Sigmund Freud, *Beyond the Pleasure Principle* (New York: Bantam, 1959); *Jokes and Their Relation to the Unconscious*. (New York: Norton, 1963).

40. John Roberts, Malcolm J. Arth, and Robert R. Bush, "Games in Culture," *American Anthropologist* 61 (August 1959):597–605.

lated a "conflict-enculturation" theory of games to explain relationships existing between types of games, child-training variables, and cultural variables.[41] In essence this theory proposes that conflict produced by specific child-rearing techniques in a culture lead to an interest and involvement of specific types of game activities which pattern this conflict in the role-reversals sanctioned by the game rules. Moreover, according to Sutton-Smith: "Involvement over time in these rewarding game patterns leads to mastery of behaviors which have functional value or transfer to culturally useful behavior."[42]

In view of the current interest in female participation in sports, it is appropriate to note that children's play as functional to the learning and practicing of culturally appropriate sex roles has been studied by a number of scholars in several of the social sciences. The work of Sutton-Smith and Rosenberg on the historical changes in the game preferences of American children and the development of sex differences in play choices. during the preadolescence illustrates how sex role differentiation is reflected in play activities of boys and girls and how changing cultural prescriptions of appropriate sex role behaviors is reflected in changes in play preferences.[43] Lever's recent studies of sex differences in children's play and game behavior suggests that these differences may give males "an advantage in occupational milieus that share structural features with those games."[44] Thus, the complex games of childhood may be functional to successful participation in the adult occupational world.

Social integration function

Human social structures are held together by normative integration and shared symbolic meaning. Functional explanations for sport frequently identify sport's presumed social integrating function. The idea here is that sports teams bind individuals to a common cause, developing loyalty to and an identification with the organizations of which the team is a part. Thus, high school and college teams, professional teams, and Olympic teams are seen as binding people to the school, college, city, and nation. Moreover, the ritual and ceremony which is a part of sport serves to reinforce the values of society, and thus promotes integration. The integrating function of sport for American society has been summarized by Cozens and Stumpf:

Common interests, common loyalties,

41. John M. Roberts and Brian Sutton-Smith, "Child Training and Game Involvement," *Ethnology* 1 (1962):166–185; Brian Sutton-Smith and John M. Roberts, "The Cross-Cultural and Psychological Study of Games," in Gunther Luschen, ed., *The Cross-Cultural Analysis of Sport and Games* (Champaign, IL: Stipes, 1970), pp. 100–108.

42. Brian Sutton-Smith, "Towards an Anthropology of Play," *The Association for the Anthropological Study of Play*, NEWSLETTER 1 (Fall 1974):10.

43. Brian Sutton-Smith and B. G. Rosenberg, "Sixty Years of Historical Change in the Game Preferences of American Children," *Journal of American Folklore* 74 (1961):17–46; Brian Sutton-Smith, B. G. Rosenberg, and E. F. Morgan, Jr., "Development of Sex Differences in Play Choices During Preadolescence," *Child Development* 34 (1963):119–126.

44. Janet Lever, "Sex Differences in the Complexity of Children's Play and Games," *American Sociological Review* 43 (August 1978):482.

common enthusiasms—these are the great integrating factors in any culture. In America, sports have provided this common denominator in as great a degree as any other factor . . . in furnishing cultural interest, fostering understanding across class lines, and increasing the intimacy of association with different classes spectator sports have contributed to those integrating forces which are vital and indispensable in the preservation of our democratic way of life.[45]

Polish sociologist, Andrzej Wohl, echoes the same theme. He says: ". . . competitive sports has . . . been turned into an instrument promoting national integration, reflecting national aspirations and achievements. This lofty function of competitive sport as a means to awaken national consciousness and national pride is no secret for anybody any more."[46]

Socialization function

In order to integrate persons fully into society, the society must provide ways and means for appropriate socialization. Various social agents and agencies typically perform this function, the outcome of which is the learning and internalization of the societal values, norms, and behaviors on the part of the individual.[47] According to sociologists Harry Edwards, sport is "A social institution which has primary functions in disseminating and reinforcing the values regulating behavior . . . and determining acceptable solutions to problems in the secular sphere of life."[48] Similarly, Walter Schafer has argued that sport socializes "the athlete into established mainstream cultural and behavioral patterns of society and in this way contributes to the stability, maintenance, and perpetuation of the established society.[49]

One of the oldest and most persistent claims with respect to sport's role in socialization is that sport "builds character," which has typically implied that behavioral dispositions such as courage, self-discipline, leadership, cooperation, loyalty, and honesty are nurtured through sport participation. One example of this belief is Patterson and Hallberg's statement: "Through athletic participation students gain many qualities for effective citizenry."[50] Aside from the undocumented essays by physical educators and a few social scientists, this contention has typically been documented through testimonials

45. Frederick Cozens and Florence Stumpf, *Sports in American Life* (Chicago: University of Chicago Press, 1953).

46. Andrzej Wohl, "Competitive Sport and its Social Functions," *International Review of Sports Sociology* 5 (1970):123.

47. William M. Dobringer, *Social Structures and Systems* (Pacific Palisades, CA: Goodyear, 1969).

48. Harry Edwards, *Sociology of Sport* (Homewood, IL: Dorsey Press, 1973).

49. Walter Schafer, "Sport and Youth Counterculture: Contrasting Socialization Themes" in *Social Problems in Athletics* ed. Daniel M. Landers (Chicago: University of Illinois Press, 1976), p. 184; also see Walter Schafer, "Sport, Socialization, and the School: Toward Maturity or Enculturation?" presented at the Third International Symposium on Sociology of Sport, Waterloo, Ontario, Canada, 1971.

50. Ann Patterson and Edmond C. Hallberg, *Background Readings for Physical Education* (New York: Holt, Rinehart, and Winston, 1965); also see American Association for Health, Physical Education, and Recreation, *Athletics in Education* (Washington, DC: AAHPER, 1962); Leonard A. Larson, "Why Sports Participation?" *Journal of Health, Physical Education, and Recreation* 35 (January 1964):36–37, 42–43; Joseph Oxendine, "Social Development: The Forgotten Objective," *Journal of Health, Physical Education and Recreation* 37 (May 1966):23–24.

of successful businessmen and military leaders, describing how their sports experiences were responsible for their achievements in business or war.

Social control function

The notion that sport has a social control function also has a long history. Almost 50 years ago sociologist Willard Waller suggested that one of the primary functions of interschool sports was to help control students' behavior. He observed the "use of athletics may simplify the problem of police work in the schools. . . . Athletes . . . are the natural leaders, and they are leaders who can be controlled and manipulated through the medium of athletics."[51]

The theory that aggressive tendencies of people need a socially sanctioned outlet has led some social scientists to suggest that sport can serve this social control function. Two well-known sociologists, Gerth and Mills, have argued:

> Many mass audience situations, with their "vicarious" enjoyments, serve psychologically the unintended function of channeling and releasing otherwise unplacable emotions. Thus great volumes of aggression are "cathartically" released by crowds of spectators cheering their favorite stars of sport—and jeering the umpire.[52]

A related dimension to the issue of sport for social control is the idea that sport is an opiate of the people, an adaptation to Marx's contention that "religion is an opiate of the masses." In 1934 Parry suggested that sport was an instrument with which the mass of population could be kept in check, awed, or distracted. According to him, sport would "allay social unrest and lessen the possibility of political uprisings.[53] In that same year in his book *Technics and Civilization*, Mumford contended that modern sport no longer had any of the characteristics of play and had become a spectacle that served only to promote the existing social order by providing a temporary distraction from the highly structured, standardized, mechanized world.[54] More recently, Hoch has argued that contemporary sport is an instrument of monopolistic capitalism which . . . "robs people of their power to make decisions and their creativity, and sets them in search of opiates in consumption and entertainment."[55] In Hoch's view contemporary sport thus serves as a mass narcotic—an opiate.

Personal-expressive function

Our discussion of the functions of play, games, and sports have focused on the instrumental functions that these activities are presumed to have —meaning that the various play forms are a means to some end which is not the participation itself. It seems appropriate to end this discussion of the functions of play, games and sports by noting that some social scientists have proposed that "sport needs no other justification than it provides a setting for sociability and

51. Willard Waller, *The Sociology of Teaching* (New York: Wiley, 1932), p. 116.

52. Hans Gerth and C. Wright Mills, *Character and Social Structure* (New York: Harcourt Brace Jovanovich, 1954).

53. Albert Parry. "Sports" in Edwin R. Seligmann and Alvin Johnson, eds., *Encyclopedia of the Social Sciences*, vol. 3 (New York: Macmillan, 1934) p. 306.

54. Lewis Mumford. *Technics and Civilization*. (New York: Harcourt-Brace, 1934).

55. Paul Hoch, *Rip Off the Big Game* (Garden City, NY: Doubleday, 1972).

fun."[56] This emphasis on the personal-expressive function of play, games, and sports views these activities as basically existential experiences that provide joy, self-satisfaction, and self-fufillment. That instrumental concerns have distorted or negated the rich potential that play forms have for nurturing expressiveness is decried by these scholars, and they are beginning to produce a growing body of literature promoting the personal-expressive potential of play, games and sport.[57]

56. Alan G. Ingham and John W. Loy, Jr. "The Social System of Sport: A Humanistic Perspective," *Quest* 19 (Winter 1973):7.

57. See, for example, Dorothy J. Allen and Brian W. Fahey, *Being Human in Sport* (Philadelphia: Lea and Febiger, 1977); Mihaly Csikszentmihalyi, *Beyond Boredom and Anxiety* (San Francisco: Jossey-Bass, 1975); Benjamin Lowe, *The Beauty of Sport* (Englewood Cliffs: NJ Prentice-Hall, 1977).

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Varsity Syndrome: The Unkindest Cut

By: ROBERT LIPSYTE

ABSTRACT: The Varsity Syndrome refers to a selection process operating within sports which systematically denies opportunities for participation to the larger portion of the population. Only those with exceptional talent, who also tend to be male, can reap the rewards of sport participation that should belong to all. This process of selection begins in youth sports and culminates in professional sport events, or high level amateur competition, which are limited to a very few individuals. Those who do make it in sports are given deference that far exceeds their worth or importance to society. This further isolates them from the mainstream of the population and, in fact, creates an elite group. Once in this group, athletes are often exploited by the sports organizations and media who view athletes as entertainment and commercial resources to be packaged and sold for economic or political purposes.

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AMERICANS must win back the natural birthright of their bodies, a birthright which has been distorted and manipulated by political and commercial forces that have used sports and physical education for purposes that often negate the incredible potential for individual and community progress that is inherent in sports—the one human activity that offers health, fun, and cooperation with the chance to combine physical, mental, and emotional energy.

Sports is the single most influential currency of mass communication in the world. Unlike so many other activities—music, art, literature—sports easily hurdles the barriers of age, education, language, gender, social and economic status that tend to divide a population.

Sports has the potential to bring us together but the evidence suggests it rarely does. In fact, it often further divides communities by promoting overzealous competition, violence, specialization, professionalization and an attitude of "win at all costs" that spills over into other aspects of daily life.

Over the years there have been changes, hopeful changes, in sport. The emergence of the black athlete, the emergence of the woman athlete, the proliferation of serious academic studies of athletes and of their impact on our culture are examples. Yet, there has been no real breakthrough in the attempt to reduce the effects of a pervasive pattern of emphasis and expectations which keeps us from realizing the intensive pleasures of sport. I call that pattern the "varsity syndrome."

We experience the effects of the varsity syndrome in childhood and its influence is lifelong. It begins in kindergarten with "organized games" and culminates each year when more than eighty million Americans watch perhaps eighty men act out our fantasies—The Super Bowl, a celebration, we are conditioned to believe, of manliness, courage, fruitful labor, pain, endurance, strength and achievement, all characteristics to which every man would aspire to hold to some degree.

Varsity syndrome—sexism

Confrontation with the varsity syndrome starts early for boys in any neighborhood, the killer word is "fag." Call a boy a fag and he will have to fight or slink away. The homosexual connotation of the word is *implicit*, though not *primary*. Since we were taught that homosexuals were unmanly, somehow "feminine," the word really meant to us that a boy was "girlish," unfit for the company of men. We all "knew" that girls were smaller, weaker, less physically skilled. They had no place or future in the big leagues of life. Sports taught us that.

A boy tried very hard to avoid being labeled a fag. He might play games in which he found no pleasure; he might root for teams that bored him; he paid constant lip service to sports. In my day it was, "Who you like better, fella, Mantle or Mays?" You could answer anyway you wanted to, you could even say "Duke Snider," just so long as you didn't say, "who cares?" The schoolyard—that nowomans land—was a male sanctuary, and the first of many arenas in which a man would be tested for his ability to perform under stress, with skill and with the ruthlessness that passes for pragmatism.

Sports was the first great separator of the sexes. Sometime after kindergarten, a girl was handed (symbolically or literally) the majorette's baton and told to go in the corner and

twirl. Her athletic moment was over. She now existed only as an encourager of males. There were, of course, girls who dropped the baton and picked up the bat and beat males at their own games. However, the culture had prepared a way to combat this seeming inconsistency. Athletically superior boys might be considered supermen, but athletically superior women were something less than real women. They were locker-room jokes. Boys would tell each other, she's playing because she can't get a date; she's a tomboy; or, most devastatingly, she's a dyke. And if she turned out to be world-class, the world was quick to suspect her chromosomes.

Reading about Babe Didrikson in Paul Gallico's popular 1938 book, "Farewell to Sport," I had no reason to disbelieve his statement that she became one of the greatest of all American athletes merely as an "escape, a compensation."[1] Gallico wrote that Didrikson "Would not or could not compete with women at their own best game . . . man-snatching."[2] Most sportswriters, observers, and participants accepted Gallico's statement as fact, or at the least as a manifestation of routine sexism. After all, women were barred from press boxes, locker rooms, and anything other than cheerleader positions in sport. Only recently, while researching a book, I came across an even simpler explanation for Gallico's slur. A fine and vain athlete himself, Gallico once raced Didrikson across a golf course. She ran him into the ground. And he never again wrote about her without mentioning her prominent adam's apple, or the down on her upper lip. I assume his rationalization was traditional: A woman can't beat a man unless he's a fag or she's not really a woman.

The usual justification for restricting women from sports competition —the very first manifestation of the varsity syndrome—was that their delicate bodies needed protection from physical harm. More realistically, I believe, women were rejected to protect the delicate egos of men who have been taught that their manhood depends on the presence of an underclass. James Michener, a respected writer and an avid sports fan and participant, recently published a book called *Sports in America*, which contained a concept that I feel is very dangerous because it is so widely held.[3] Michener wrote that between the ages of about eleven and twenty-two men and women should not compete against each other in sports because of the possible damage to the male's ego should he lose.[4] No consideration is given to the ego of the young female who is striving to exhibit and stretch to the outer limits her own talents and skills.

The sexism of the varsity syndrome transcends sports. Athletics give youngsters an opportunity to learn the positive values of leadership, of cooperation and dedication and sacrifice for a goal. Games are a source of skill development, whether it be physical, mental, or social. Many women have been stunted in their growth toward full citizenship because they were denied an opportunity routinely afforded to every male. The woman who does succeed in American sports does so at a certain cost. I recall one afternoon in the middle sixties, coming off a tennis court after a victory, sweaty,

1. Paul Gallico, *Farewell to Sports* (New York: Alfred A. Knopf, 1945), p. 229.
2. *Farewell to Sports*, p. 229.
3. James Michener, *Sports in America* (Chicago: Random House, 1976).
4. *Sports in America*, p. 129.

rackets under her arm, Billie Jean King was intercepted by a male spectator from the stands who asked, "Hey, Billie Jean, when are you going to have children?" Billie Jean answered, "I'm not ready yet." The man continued, "Why aren't you at home?" Billie Jean snapped right back "Why don't you go ask Rod Laver why *he* isn't at home?"

Varsity syndrome—elite deference

Another component of the varsity syndrome, learned on the streets and reinforced throughout school, is elitism. Special privileges are afforded athletes, including a special psychological aura or deference that ultimately proves to harm the athlete as well as the non-athlete. This aspect of the varsity syndrome is so pernicious it finds its supporters at both poles of the playing field, from neanderthal coaches on the right, whose authoritarian methods squeeze out joy of sports, to so-called sports revolutionaries on the left who see athletes as a higher order of human beings.

Traditionally, soon after fifty-one percent of the potential athletes—the women—were cut from the team, the process of winnowing the boys begins. This process, which George Sauer, the former New York Jets wide receiver, has called a form of social darwinism, has many ramifications.[5] First of all, it separates boys into worthy and unworthy classes just at a time in their lives when they are most confused about their bodies and their relationships with their peers. Those annointed as athletes often drop away from other social and intellectual pursuits, and it becomes harder and harder for them to catch up when they, too, are eventually cut from the team. It happens to everyone eventually, and no matter the age or level of competition, the cut is hard to take. Those who are marked as failures at critical times in their lives often seem to spend the rest of their lives measuring up. Those who measure up early and last for awhile become jocks. In our society the jock is often the male equivalent of the stereotyped female, the broad.

The jock and the broad are selected and rewarded for beauty and performing skills. They are used to satisfy others and to define themselves by the quantity and quality of that satisfaction whether it be as a Heisman Trophy winner or Miss America, rookie of the year or starlet, all-America or prom queen. When they grow too old to please they are discarded.

One of the cruelest ramifications of the elitist component of the varsity syndrome is the way it has been used to turn black athletes into a gladiator legion in American sports. Contrary to prevailing opinion, sports success has probably been detrimental to black progress. By publicizing the material success of a few hundred athletes, thousands, perhaps millions of bright young blacks have been swept toward sports when they should have been guided toward careers in medicine or engineering or business. For every black who escaped the ghetto behind his jump shot, a thousand of his little brothers were neutralized, kept busy shooting baskets, until it was too late for them to qualify beyond marginal work.[6]

Those who do make it big, white or black, male or female, are gen-

5. Robert Lipsyte, *SportsWorld* (New York: Quadrangle, 1975), p. 51.

6. Rick Telander, *Heaven is a Playground* (New York: Grosset and Dunlap, 1976).

rally lionized out of all proportion o their intrinsic worth, or to their mportance to society. The athlete s damaged by the exaggerated dulation and the rest of us are given pantheon of heroes on a nest of alse laurels. An example from my ›wn experience illustrates this point. Vhen I was about twenty-one, a ›rand-new reporter at *The New York 'imes*, I was sent to Yankee Stadium o interview Mickey Mantle. Several ıights earlier, a fan jumped out of the tands and traded some punches vith Mantle. This was years before he advent of what psychiatrists' .ow call "recreational violence," nd it was quite unusual. Apparently Aantle had gotten the worst of the cuffle; he couldn't chew very well or a day or two. No one had dared nterview him about the incident. I vas sent because I was expendable s a cub reporter and I asked him bout it because I didn't know any etter. So, in my most polite reprtorial tones I asked Mickey if his ıw still hurt. Mickey looked at me ontemptuously and made an obcene and physically impossible uggestion. Somehow, after years of eading about Mantle in newspapers nd magazines and books, I was not xactly prepared for his answer. So rephrased it and tried again. He ıen signalled to Yogi Berra, another ll-star charmer, and they began ırowing a baseball back and forth n inch over my head. I sensed that ıe interview was over.

I don't want to make too much of ıis because I think a celebrity has ıe right (within limits that apply to s all) to act any way he or she wants. ut, I also think the rest of us have a ight not to be deceived. That little ıcident at Yankee Stadium was a eal consciousness-raiser for me. If ıis was the real Mickey Mantle, I ıought, then we haven't been getting the right information. Like so many athletes in our culture, Mantle had been isolated early by virtue of the varsity syndrome, given privileges denied the rest of us. Those privileges begin with favors and gifts in grade school, little presents in high school such as an unearned diploma, perhaps a college scholarship. Athletes are waved, as it were, through the toll booths of life. And then, as celebrities, they are given a whole new identity as heroes.

Of course, to publicize any frailties in athletic character structure is to bring down a wave of criticism and often categorical rejection. When Jim Bouton's book, *Ball Four*, came out a few years ago, the big rap against the book wasn't its stories or that major league shenanigans were untrue, but that kids shouldn't hear them—that the false image of athletes as somehow a super race apart, must be retained, even at the price of truth.[7] Why is it so important that kids look up to false heroes as models of behavior? Why not know the truth and learn to separate what people do from what they are; to appreciate athletes as dedicated specialists, as entertainers, but not as gods.

Varsity syndrome—athletes as salesmen

There are, of course, so many components of the varsity syndrome we could never even touch them all in this limited space. But there is one other significant dimension that deserves mention—the use of athletics and athletes to sell a product. At its lowest form, athletes sell shoes or panty hose, breakfast cereals or underarm deodorant. They sell colleges that have four books in the library

7. Jim Bouton, *Ball Four* (New York: World. 1970).

but a multi-million dollar fieldhouse. Athletes sell cities which mortgage their futures to build ball-parks in order to be plunged into a national entertainment network which is valuable for tourism and investment. And, on the highest and perhaps most grotesque level, athletes are used to sell ways of life, ideologies.

This is the most distorted level, not only because worldclass athletic competitions, like the Olympic Games, are such major events, but because they would not be possible without the varsity syndrome, that careful and calculated selection process that starts in kindergarten. This narrow elitism makes most of us failed athletes long before we've had the chance to really feel the sensous delights of the wind in our hair while running, or the water lapping at our bodies while swimming, or the almost orgasmic pleasures of that one perfect shot or catch or leap that comes to everyone involved in sport. Sport is the best thing you can do with your body in public.

The Olympic Games are grotesque within themselves. As is probably known, the modern Olympics were the brainstorm of a French baron from a military family who never got over France's defeat in the Franco-Prussian War. Baron DeCoubertin wanted a rematch and he thought French youth could get in shape for the rematch through sports. That kind of nationalistic taint has never been removed from the games. In 1968 we saw the spectacle of black athletes, who raised their fists in protest against racism in America, thrown off the team even though theirs was an individual gesture in a context that is supposed to exist for individualistic expression. In 1972 the hideous extension of DeCoubertin's nationalism—the use of the Olympics as a showcase for the strength of democracy or the goodness of socialism or the love of the Junta—resulted in the murder of a team of competitors from Israel. In 1976, the various machinations over China and South Africa reenforced the Olympics as *Politics in a Sweatshirt*.

The Olympics not only represents a major political event, it also is a significant entertainment and commercial event. The most poignant lesson, to me, came at a press conference prior to the 1976 games. The president of ABC sports at the time, Roone Arledge, a very powerful man in international sports, was asked by an idealistic journalist why the opening event of the Games, the ceremonial parade of athletes, couldn't be run for its full hour or more without commercial interuptions. Arledge replied quite amiably that it wouldn't be commercially feasible . . . "after all, sponsors pay for telecasts."

But the questioner continued . . . "Many countries which use the Olympics as a showcase or as a statement of identity, might never be seen except in that opening parade. After all, many countries win no medals at all. And some sports, like field hockey, water polo, and volleyball, are not well covered. So some countries, lost in a commercial, might never get on the world television feed at all."

"That's true," said Arledge.

"How do your pick candidates for obscurity?" asked the journalist.

"Well," said Arledge, "we have to make judgements. Suppose we've just had two little South American countries, and its time for a commercial, and here comes a third South American country . . . soooooo, sorry about that Chile."

That third little South American country, or that little midwestern college, betting its identity on the

ephemeral possibility of national or international exposure, is putting a kind of graffiti on the windows of the world, shouting, "I'm here, we're alive."

They are in the trap of the varsity syndrome. The payoff can be great, but the price to pay is also great and, for most, rarely worth the gain. The struggle to success may be stalemated prematurely by the whim of a television producer or the vagaries of the system itself. Win or lose, the country and the college invariably sell their souls cheap to a system that uses them up and moves on.

This is a system in which, for the past one hundred years or so, most Americans have been taught to believe that playing and watching competitive games are not only healthful activities, but exert a positive force on our national psyche. Through sports, they have been led to believe, children will learn courage and self-control; old people will find blissful nostalgia; families will discover nonthreatening ways to communicate among themselves, immigrants will find shortcuts to recognition as Americans, and, rich and poor, black and white, educated and unskilled, we will all find a unifying language with democratization the result: The melting pot may be a myth in real life, but in the ballpark or on the playing field we are one community, unified in common purpose. Even for ballgames, these values, with their implicit definitions of courage and success and manhood, are not necessarily in the individual's best interests. But for daily life they tend to support a web of ethics and attitudes, part of that amorphous infrastructure called *SportsWorld* . . . that acts to contain our energies, divert our passions, and socialize us for work or war or depression.

In 1928, a Columbia University historian named John Krout wrote: "During depressions, with thousands out of work, sports helps refocus our attention on the great American values and ideals and also helps us to remember that life does not begin and end with the dollar."[8] This infrastructure, SportsWorld, is neither an American nor a modern phenomenon. The Olympics of ancient Greece were manipulated for political and commercial purposes. SportsWorld is no classic conspiracy, but rather an expression of a community of interest. In the Soviet Union and East Germany, for example, where world-class athletes are the diplomat-soldiers of ideology, and where factory workers exercise to reduce fatigue and increase production, it is simple to see that the entire athletic apparatus is part of government.

In this country, SportsWorld's power is less visable, but no less real. In America, banks decide which arenas and recreational facilities will be built; television networks decide which sports shall be sponsored and viewed; the press decides which individuals and teams will be celebrated; municipal governments decide which clubs will be subsidized through the building of stadiums; state legislatures decide which universities and which aspects of their athletic programs, will prosper; and the federal government, through favorable tax rulings and exemptions from law, helps develop and maintain sports entertainment as a currency of communication that surpasses patriotism and piety while exploiting them both.

8. John Krout, "Some Reflections on the Rise of American Sport," Proceedings of the Association of History, #26 1929. Reprinted in *The Sporting Set*, ed. Leon Stern, (New York: Arno Press, 1975), pp. 84–93.

CONCLUSION

Educators and journalists are at ult for their support of this system. nd we are often in the position of eing the fall guys. It sometimes eems as though we are in what the lay-by-play announcers call a no-in situation. By working within the ıles of the system, preparing athletes nd teachers to function smoothly in portsWorld, and to prosper with the arsity syndrome, we are perpetuatng a pattern that is basically anti-ports, that deprives the joy of healthy lay and competition to the society s a whole. By trying to beat the sysem by de-emphasizing big-time ports and cutting back on the masive construction of arenas that are vasteful in terms of human use, in avor of some broad-based physical ducation programs, we are often in langer of jeopardizing the financial ealth of our institutions and disriminating against the really talented thletes who deserve the chance to levelop to their limits just as surely s do the young poets in the English Department or the student engineers. Educators and journalists are the fall guys because when things go wrong they are often blamed, and sometimes fired—even though the ultimate decisionmaking power in SportsWorld is never theirs.

Sports is, has always been, and will always be, a reflection of the mainstream culture or the society. Those who claim that we could or should keep sports free of politics, or free of commercialism, or free of ideology are fools. If sports were not such a reflection, it would be nothing more than an isolated sanctuary, an irrelevant little circus, and hardly worth considering. But sports is, as I firmly believe it should be, a critical part of the lives of every man, woman, and child in the country and in the world. Furthermore, it should be accessible, inexpensive, and fun.

Activists have always seen sports as a tool to change or direct society, and they have been criticized for it. Yet when establishment politicians and coaches talk about sports as preparation for life or about football as a way of training young men for war or for corporate positions, they are using sports as a tool just as surely as is anyone who calls for a boycott of an all-white South African rugby team. The answer, of course, is that society must be changed before sports can be changed. But that, too, can sometimes be a self-defeating answer. It allows too many of us to sit back and throw up our hands. Changing society seems like an incomprehensible, much less possible, task.

However, things are happening in sports, exciting things, some progressive, some reactionary, some scary. First, there's a growing awareness of the importance of sports in our lives. Second, the increasing academic interest in sports is a hopeful sign. Institutes, both independent and on campuses, are being created with the explicit goal of investigating, analyzing, and understanding the role of sport and society. Third, there are new laws to help end the systematic exclusion of women. (But care must be taken that the varsity syndrome does not permeate the organization of womens' sport.) Fourth, there's a growing body of work exposing the so-called Lombardi ethic of "Winning isn't the Most Important Thing, its the Only Thing" (A phrase, by the way, which Lombardi didn't invent) as appropriate for the professional Green Bay Packers, but a crippler, physically and psychologically, when applied to youngsters just starting in sports.

Despite the enormous amount to

be accomplished, there are little contests each of us can engage in that will win for us all: one little community recreation program for older people; one totally non-sexist grade school sports program; one high-school program which involves every student regardless of skill level; a girls team that doesn't use the JV's left-over shoes and the gym at dinner time; a college pool that doesn't discriminate against non-varsity swimmers; a little league that defuses the pressures of joyless competition; and a university classroom that openly approaches the possibility of new games, new methods, and fresh concepts in sport studies. Each victory will shed some light on sports and will help shape our lives through its cultural impact. Each victory will help dispel the darkness of Sports-World, the varsity syndrome, and a system that separates people by calling some athletes and some non-athletes. When this beautiful and good thing we call sports allows each person to be an athlete forever, then it will have been true to its original purposes.

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The Convergence of Work, Sport, and Gambling in America

By H. ROY KAPLAN

ABSTRACT: The changing nature of work brought about by increased mechanization and the division and specialization of labor has decreased opportunities for meaningful, satisfying experiences on the job. Although work was traditionally the only legitimate means for upward mobility, gambling has emerged as an alternative route to riches and a method for escaping the tedium of contemporary jobs. Sports have become the vehicle through which the majority of gambling is done. The proliferation of legalized gambling as a consequence of boredom in the world of work not only diverts public attention from critical social issues and constructive methods for handling them, it also demeans sports by subjugating them to materialistic escapist ends.

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IF YOU could have one wish for yourself, or better still, for your children, what would it be? Health? Wealth? Wisdom? Over the last eight years, I have sought the answer to this question. Traveling across the United States and Canada, I interviewed over 200 big lottery winners who got their life-long wish. Judging from the brisk sales of tickets, one can conclude that millions of people believe money is tantamount to happiness. The desire for financial security and all the perquisites which accompany it—affluence, independence, leisure, health, and supposedly, happiness—is a dream shared by people throughout the world.

From the earliest stirrings of our cave-dwelling ancestors, life has been a never-ending struggle for survival and security. Work has been the most socially acceptable and legitimate method of obtaining these life goals; but work can be hard and dangerous, dull at times, often dirty, and for some, demeaning. As a result of these negative aspects, or for other reasons which we shall explore, there has arisen a parallel subaltern value system in the United States which emphasizes chance and luck as crucial elements in success. If work is too difficult or unappealing and luck, chance, or divine providence have a hand in determining when success will be attained, then gambling is not only a diversion, but an opportunity to obtain security by maximizing the possibilities of luck.

As work has, of necessity, been an element of human existence on this planet from time immemorial, so, too, has gambling. But we shall see that the two are not mutually exclusive. Gambling often evinces many of the characteristics of work. The infusion of machines into the world of work has routinized jobs, increased productivity, and shortened the work week, thereby providing more free time. It was only a small step to fuse work, leisure, and recreational activities with gambling, and the interrelationships between work, sport, and gambling are being considered here.

One of the theses of this paper is that the burden of work which most of us must bear has created the need for an escapist safety valve such as gambling. Both work and gambling have as one of their primary objectives the achievement of economic rewards, although the former is the acknowledged legitimate method for obtaining self-sufficiency, while the latter, though an integral part of people's lives throughout history, has been labeled illegitimate. Yet both have persisted; indeed, more people are doing both than ever before. The labor force in the United States is approximately 100 million people, the highest level yet. A 1975 survey conducted for the Commission on the Review of the National Policy Toward Gambling (Gambling Commission) revealed that 61 percent of the adult population (18 years of age and over) participated in some form of gambling in 1974, and 68 percent had participated during their lifetimes.[1] Table 1 shows the distribution of gambling behavior by several key population characteristics.

The question which concerns us at this juncture is why work, a basic and important activity of people, is conducive to an interest in gambling? A brief historical look at the moral underpinnings of the contemporary work ethic will help to establish a framework from which we can ex-

1. Commission on the Review of the National Policy Toward Gambling, *Gambling in America* (Washington, DC: USGPO, 1976), p. 58.

TABLE 1

REPORTED BETTING PARTICIPATION BY DEMOGRAPHIC CHARACTERISTICS (N = 1,736)

		Total Sample	Never Bet	Current Non-Bettor	Any	Legal Comm'l	Only Legal Comm'l	Friends	Only Friends	Illegal	Heavy Illegal**
Total Sample	%	100	32	39	61	44	7	50	13	11	3
Male	%	46	25	32	68	47	5	60	16	17	5
Female	%	54	39	45	55	42	9	42	10	5	1
White	%	85	31	38	62	45	7	52	13	10	2
Non-white	%	13	39	48	52	38	8	38	8	17	5
18–24 years	%	14	25	27	73	48	6	65	20	15	3.1
25–44 years	%	43	26	31	69	52	6	59	13	14	3.1
45–64 years	%	31	33	40	60	42	10	44	12	8	2.8
65+ years	%	12	65	77	23	17	5	15	5	2	*
Employed	%	60	23	29	71	50	7	61	16	15	4
Unemployed	%	4	25	31	69	54	2	61	8	15	4
Under $5,000	%	13	66	76	24	17	3	18	4	3	*
$5,000–$10,000	%	18	42	49	51	39	6	43	10	8	2.4
$10,000–$15,000	%	22	24	31	69	46	10	51	19	10	2.6
$15,000+	%	41	21	26	74	54	7	63	15	15	3.3
Did not graduate H.S.	%	32	49	59	30	30	7	30	7	8	2
High school graduate	%	31	29	34	48	48	9	53	14	12	3.5
Some college	%	21	22	28	52	52	4	64	16	13	3.7
College graduate	%	16	18	21	56	56	8	67	18	11	1.3
Catholic	%	27	17	20	65	65	11	63	14	16	4
Protestant,	%	66	38	46	36	36	5	45	11	9	2.4
Presb/Luth/Cong/Episc/	%	16	20	26	51	51	7	64	21	10	2.7
Bible-oriented sects	%	11	57	67	19	19	6	25	9	8	2.2
Methodist	%	13	30	37	41	41	3	53	15	11	2.2
Baptist	%	19	47	55	30	30	4	37	11	10	2.8
Jewish	%	2	23	23	66	66	7	66	8	19	2.1
Atheist, no preference	%	4	44	60	33	33	3	36	5	5	.2
Northeast	%	23	17	20	80	67	8	67	8	19	6
North Central	%	28	28	34	66	48	9	48	15	12	3
South	%	31	52	60	40	23	5	31	12	6	1
West	%	18	24	35	65	47	7	56	17	7	*
City 100,000 or more	%	27	28	34	66	46	7	54	14	15	5
Suburb of city over 500,000	%	23	23	28	72	56	7	59	12	14	3
Small cities, rural	%	51	39	47	53	38	7	43	12	7	1

* Less than one-half of 1 percent; **Respondents wagering more than $200 a year on illegal gambling.

SOURCE: *Gambling in America*, *op. cit.*, pp. 59–60.

trapolate useful comparisons between work and gambling. This view will also provide a look at the vehicle through which the transmutation of the former into the latter occurs—sports.

THE MORAL IMPERATIVES OF WORK

Tilgher[2] and Arendt[3] have provided us with insights into the role of work in historical perspective. The activity of work was not always highly prized or rewarded. The ancient Greeks and Romans abhorred it, believing work fit only for slaves. As time passed, a transformation in the conceptualization of the utility and rewards of working occurred by linking work with religious teachings and ideological predilections of philosphers and economists.

German social scientist Max Weber described the linkage of work with Protestantism and the development of a work ethic.[4] English historian E. P. Thompson provided some interesting illustrations of seventeenth- and eighteenth-century admonitions of clergymen to their parishoners about the virtues of hard work and the efficient utilization of time. John Wesley, the founder of Methodism, sermonized in the late eighteenth century:

> By soaking . . . so long between warm sheets, the flesh is as it were parboiled, and becomes soft and flabby. The nerves, in the mean time, are quite unstrung.
>
> See that ye walk circumspectly, sayd the Apostle . . . redeeming the time; saving all the time you can for the best purposes; buying up every fleeting moment out of the hands of sin and Satan, out of the hands of sloth, ease, pleasure, worldly business. . . .[5]

The religious beliefs of the Puritans and the later fire-and-brimstone oratory of evangelists such as Jonathan Edwards combined the Calvinist belief in predestination with work and salvation. Ascetic Protestantism had an influence on the development of capitalism, since both emphasized the efficacy of hard work, individual initiative, thrift, and productivity for the good of society. This latter facet of the Protestant work ethic explicitly excluded gambling, since it was considered to be selfish and ostensibly unproductive. It is ironic that modern governments are attempting to persuade their publics that gambling is an economically productive activity which has benefits for the commonweal.

The belief in the efficacy of hard work and the attainment of satisfaction through labor served as an ideological justification for capitalism. The Protestant work ethic was linked to industrialism and found a home in the United States. But so also did gambling. In fact, our country was founded with the aid of lotteries which, among other things, financed the Virginia Bay Company's settlement in Jamestown, the American Revolution, over forty colleges and universities, including the Ivy League schools, and the construction of countless roads, bridges, canals, hospitals, courthouses, and schools.[6]

Through work, adversities such

2. Adriano Tilgher, *Homo Faber: Work Through the Ages*, trans. Dorothy C. Fisher (Chicago: Henry Regnery Company, 1958).

3. Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958).

4. Max Weber. *The Protestant Ethic and the Spirit of Capitalism.* Talcott Parsons (trans.). New York: Charles Scribner's Sons, 1958.

5. E. P. Thompson, "Time, Work-Discipline, and Industrial Capitalism," *Past and Present* 38 (December 1967), p. 88.

6. John Samuel Ezell, *Fortune's Merry Wheel: The Lottery in America* (Cambridge: Harvard University Press, 1960).

is unfamiliar terrain, harsh climate, and hostile natives could be overcome with the knowledge that Divine Providence was on one's side. The acquisition of wealth as a result of one's efforts symbolized God's reward for industriousness. The people who came to the United States combined aggressiveness with a desire to escape persecution, a thirst for freedom to explore new lifestyles often in quest of adventure, and a desire to pursue lifelong ambitions in occupations which had been previously closed to them. This land of opportunity held the promise of material success. The exaggerated emphasis on work as the means to an economic end gained ascendancy and ultimately relegated work to an instrumental activity. But, the nature of work failed to provide rewards beyond the material or economic.

Into this vacuum—this void of meaning created by the routinization, division, and over-specialization of work for the purpose of productivity and material gain—came gambling and sports, functioning as alternative sources of wealth, stimulation, and excitement. They offered the poor, deprived of equal work opportunities, the promise of instant riches. The middle classes, whiling away days in numbing white collar jobs and barely meeting bills but spending ostentatiously, found status and security in sport and gambling. The wealthy, bored with affluence, sought vicarious entertainment in true gladiatorial splendor coupled with suspense and risk.[7]

CONTEMPORARY WORK IN AMERICA

While the death and carnage of the early years of industrial development in the United States were abated by law, the quality of working life still remains unacceptable. Each year, approximately 14,000 Americans are killed on the job. The Department of Health, Education and Welfare conservatively estimates that 390,000 new cases of occupational diseases occur annually, resulting in perhaps 100,000 fatalities.[8] The National Institute of Occupational Safety and Health lists over 12,000 toxic materials to which American workers are exposed. In addition to the threat of overt bodily harm from hazardous working conditions, tens of thousands of workers, many in high-level, white collar jobs, are subjected to work-related stress which can lead to serious physiological disorders, such as ulcers, hypertension, or heart disease, as well as psychological anxiety.[9]

How do workers relate to these hazards and the tedium of their jobs? Voluminous job satisfaction studies consistently show high percentages of satisfied workers (approximately 80 percent),[10] but more introspective

7. Perhaps the only difference between contemporary contact sports, such as football and hockey, and the Roman Circuses is that today's losers don't get eaten—just fired; for a look at the darker side of exploitation in professional sports in the United States, see Paul Hoch, *Rip Off the Big Game: The Exploitation of Sports by the Power Elite* (Garden City, NY: Doubleday, 1972) and Dave Meggyesy, *Out of Their League* (Berkeley: Ramparts, 1970).

8. *President's Report on Occupational Safety and Health, 1972.* (Washington, DC: USGPO, 1973), p. 63.

9. *Work in America: Report of a Special Task Force to the Secretary of Health, Education and Welfare* (Cambridge: MIT Press, 1973), pp. 79–92; Jerry E. Bishop, "Age of Anxiety," *Wall Street Journal*, 2 January 1979, pp. 1, 23; "Stress," *National Safety News*, January 1979, pp. 34–38; L. L. Cooper and R. L. Payne, *Stress at Work* (New York: John Wiley & Sons, 1978).

10. Frederick Herzberg, et al., *Job Attitudes: Review of Research and Opinion* (Pitts-

investigations reveal pervasive underlying alienation.[11] The fact that most workers show up for their jobs has been taken as evidence of their contentment and commitment. Nothing could be further from the truth, for this job involvement is actually detached. Workers are committed to the economic rewards and security derived from jobs, but look outside of their work for stimulation and enjoyment. Hence, there is an increasing focus on sport and its synthesis with and subordination to gambling as a diversion.

WORK AND LOTTERY WINNERS

Most attitudinal measures of job satisfaction are deficient because they are hypothetical. They also tend to elicit predisposed sets of values determined by the context of the interview and the circumscribed choices of workers. With this orientation in mind, I began interviewing and observing lottery winners because apparently they could choose between working and leisure. Over a period of four and one-half years and travels of 15,000 miles, I interviewed thirty-three of the thirty-seven million-dollar-winning families in New Jersey. Forty of the fifty-four who were employed full-time prior to their winning the lottery quit their jobs. As size of earnings and occupational level increased, the proportion quitting work decreased. Nevertheless, a majority of people in every occupational category, including professionals, quit. Similar results were obtained in studies of Canadian lottery winners and in New York, Pennsylvania, Maryland, and Illinois.[12]

Winners were often outspoken in their denunciation of work. A fifty-seven-year-old electronics inspector suffering from hypertension asserted: "Look, you have to be honest with yourself. People work because they have to. What are you going to do? Where are you going to go? Why does anyone work? For the money."

A sixty-year-old set-up factory laborer who won a million and quit three months later bitterly complained: "Let me tell you, I don't miss being away from it either. The longer you stay away from it, the less desire you have to go back. Jobs are nothing but worries. You have to get up in the morning to get to your job, and you worry about being sick and whether the kids are sick and, if you have to miss work, whether they'll dock your pay or fire you. Jobs are something you have to do to be able to survive. The most dissatisfying thing about my job was having to be there."

A fifty-four-year-old plumber echoed a similar sentiment: "When I won I held up my keys, waved them around my head, and told them I'd

burgh: Psychological Service of Pittsburgh, 1957); Robert L. Kahn, "The Meaning of Work: Interpretation and Proposals for Measurement," in *The Human Meaning of Social Change*, ed. Angus Campbell and Phillip E. Converse (New York: Russell Sage Foundation, 1972); H. Roy Kaplan, "How Do Workers View Their Work in America? *Monthly Labor Review*, 96 (June 1973): pp. 46–48.

11. C. Wright Mills, *White Collar* (New York: Oxford University Press, 1951); Arthur Kornhauser, *Mental Health of the Industrial Worker* (New York: John Wiley & Sons, 1965); Studs Terkel, *Working* (New York: Pantheon, 1974); Barbara Garson, *All the Livelong Day: The Meaning and Demeaning of Work* (Garden City, NY: Doubleday, 1975).

12. H. Roy Kaplan and Carlos Kruytbosch, "Sudden Riches and Work Behavior: A Behavioral Test of the Commitment to Work," paper presented at the American Sociological Association, San Francisco, 1975; H. Roy Kaplan, *Lottery Winners: How They Won and How Winning Changed Their Lives* (New York: Harper and Row, 1978).

never go back to work. I swore the day I won I'd quit, and I did.[13]

These results indicated that work is primarily an economic activity, and although the habit of working is strong because it occupies one's time and is necessary for obtaining security, it can be broken when alternative sources of income are available.

In a work world which offers little opportunity for creativity and independence, where work pace, routine, and decisions filter down from above and wages and salaries are eroded by inflation, people turn to gambling in search of the challenge and opportunities absent in their jobs and to divert their thoughts from the frustration and boredom which daily confront them.

SPORTS AND GAMBLING

The degradation of work is accompanied by the legalization and proliferation of gambling, as governments seek to substitute one form of revenue and productivity for another. As proof of such substitution, one need only note the almost universal presence of lotteries in non-Communist and Communist countries alike. Also, the tacit acceptance of the public's desire for diversion from daily problems is evidenced by the 1968 Gaming Act in Great Britain and the existence of casino gambling in forty European countries.

In the United States, there is no cohesive, national gambling policy. Instead, a patchwork of state laws, many predicated on moral codes stemming from Puritan times, seeks to regulate a burgeoning multi-billion-dollar phenomenon of legal and illegal industries. These various industries encompass hotels, restaurants, entertainment, casinos, racetracks, frontons, poker parlors, trade publications, books, and ancillary services, such as catering, laundries, gambling equipment and devices, and security services. In 1977, over sixty million persons attended professional football, basketball, baseball, and hockey events.[14]

Concomitant developments in communications, especially telecommunications, allowed the nonattending public to read, listen, and observe from their homes, increasing audiences and the potential rewards available for players and bettors. By heightening the drama of sporting events through playoffs, special events, and extended media coverage, a passive activity, such as home television viewing, was intensified. This occurrence stimulated the unification of sport with gambling on a mass scale.

Sports betting, the largest form of gambling in the United States, is of monumental proportions, estimated at over \$17 billion annually by the Gambling Commission, \$29–\$39 billion by the United States Department of Justice, and \$67 billion by the Bureau of Alcohol, Tobacco and Firearms. Sports bookmaking is the largest form of illegal gambling in this country. Sportswriter Larry Merchant contends that 12 to 15 million football fans bet on Sunday-afternoon football games. Televised games generate more betting than nontelevised ones, with Monday-night games

13. H. Roy Kaplan, *Lottery Winners*, pp. 79, 98–99, 103.

14. Statistics on basketball come from "The Sport Interview: NBA Commissioner Larry O'Brien," *Sport* (December 1978), p. 35; football and hockey information appeared in *The World Almanac and Book of Facts, 1979* (New York: Newspaper Enterprise Association, Inc., 1978), pp. 863 and 836, respectively; baseball information came from *Information Please Almanac 1979* (New York: Viking Press), pp. 968–969.

accounting for some of the largest wagering on any sporting event.[15] Bookmakers in Dallas, Texas, handled $50 million in 1978 Super Bowl bets. They literally stuffed thousands of dollars into pockets and suitcases which they carried in a procession through the Dallas-Fort Worth Airport enroute to laying it off with bookmakers in other cities.[16] A western New York bookmaker estimated that $2 million was wagered illegally there each weekend on football games.[17]

Horseracing, with attendance nearly 79 million in 1975, is the largest spectator sport in the country. The total attendance for New York State thoroughbred, harness, and quarter-horse racing in 1977 on 1,791 racing days was 12,540,327. This activity generated a betting volume of $1,448,492,902, of which $108,519,368 went to the state.[18] Off-track betting (OTB) in New York contributed another $27,262,392.

MOTIVES FOR LEGALIZED GAMBLING

Legalized gambling spurs public interest in sports as a popularizer and legitimizer of the activity for viewing and betting. States use three major rationalizations to justify legalization: it decreases illegal gambling; it raises needed revenue; and it provides entertainment.

15. Larry Merchant, *The National Football Lottery* (New York: Holt, Rinehart and Winston, 1973), pp. 6–7.

16. Doug Bedell, "Millions Bet Billions, Bucking Odds and the Law: And the Media Contribute to the 'Gambling Atmosphere'," *Los Angeles Times*, 28 November 1978, Part 3, pp. 1, 8.

17. Mike Jankowski, "Bookie Pegs Football Bets at $2 Million Weekly in WNY," *Buffalo Courier Express*, 17 December 1978, Sec. D, p. 3.

18. New York State Racing and Wagering Board Annual Report, 1977, pp. 6, 11.

Effect on illegal gambling

Legalization adversely affects illegal gambling by cutting into the revenues of illegal operations, such as clandestine bookmaking, number's games, and illegal casinos, or "sneak joints." Although some forms of legalized gambling reduce illegal revenues, illegal games persist because of better odds, tax-free winnings, convenience, and the cultural institutionalization of some games among racial-ethnic groups (for example, numbers amongst blacks).[19] The Gambling Commission, recognizing the attractiveness of tax-free winnings, recommended that legal winnings be excluded from gross income for federal income tax purposes.[20] No action has been taken on this recommendation, however.

Raising revenue

It is technically correct that legalization generates considerable revenue for states. However, this fact represents an exaggeration when compared to the needs of the state and the impact of other sources of revenue such as taxes. The Gambling Commission documented the ineffectiveness of legalized gambling for generating revenue and cautioned states not to expect significant takeouts. As Table 2 indicates, the Commission projected combined potential U.S. revenues of $8.25 billion dollars for eight games. While this figure may be a gross understatement when compared to the total budgets of some cities and states, these figures broach insignificance. For example, OTB yielded just under $72

19. Ivan Light, "Numbers Gambling Among Blacks: A Financial Institution," *American Sociological Review* 42 (December 1977): pp. 892–904.

20. *Gambling in America*, pp. 14–17.

TABLE 2

REVENUE POTENTIAL OF LEGALIZED GAMBLING (N = 1,736)

	PARTIC'N RATE %	(ASSUMPTION) AVERAGE ANNUAL HANDLE		NET STATE REVENUE* PER CAPITA	(MILLIONS) POTENTIAL U.S. TOTAL	
		PER BETTOR	PER CAPITA		HANDLE	REVENUE
Lottery	50.3	$ 23.73	$ 11.93	$ 5.37	$ 1,719,000	$ 774,000
Numbers	50.0	100.00	50.00	22.50	7,206,000	3,243,000
Sports Betting Parlors	8.0	170.00	13.60	0.98	1,960,000	331,000
Sports Cards	10.0	50.00	5.00	2.50	721,000	360,000
Off-track Horse Betting	13.5	417.00	56.30	5.63	8,114,000	811,000
Horse Tracks	25.8	841.00	217.00	16.28	31,276,000	2,346,000
Slot Machines	72.1	377.00	279.00	2.72	40,212,000	392,000
Table Games	27.3	846.00	231.00	1.73	33,294,000	249,000
Total, 8 Games	N/A	N/A	864.00	57.71	124,527,000**	8,288,000**

* Allowance has been made for operating costs of State-operated games.
** Detail does not add to total due to rounding.
SOURCE: *Gambling in America, op. cit.*, p. 67.

million to New York City in 1977, but welfare expenditures alone for the city that year were approximately $9 billion.[21]

The revenue realizable from legalized gambling is a function of the potential volume of play, operating costs, and tax rates. Tax rates and operating costs can be juggled, but taxes have a retardant effect on participation, and operating costs are frequently fixed by statute—roughly 15 percent of the betting volume in state lotteries. This situation puts states in the unenviable position of manipulating the one factor in this equation amenable to tampering—volume of play.

Since legalized gambling must return a large proportion of the betting volume to bettors in the form of prizes—for example, roughly 83 percent in horseracing and slot machines and 45 percent in lotteries—the state often serves as a conduit for private business which controls the gambling and takes a predetermined share of the action in what amounts to a lucrative legal monopoly. In fact, revenues from legalized gambling account for only 1 to 3 percent of a state's budget. A study for the National Science Foundation found that states could generate the same amount of revenue raised from lotteries by increasing sales tax rates by half of one percent. Furthermore, the error in predicting tax revenues for the coming year's budget can, and already has, in some states, exceeded lottery revenues.[22]

There is no question that millions of dollars have been and will continue to be generated by legalized gambling. The question is whether states would have implemented spending cuts or increased revenues through other methods if they had not enacted legalized gambling. For example, despite the success of its lottery, New Jersey's financial woes

21. New York State Racing and Wagering Board Annual Report, 1977, p. 17.

22. David Weinstein and Lillian Deitch, *The Impact of Legalized Gambling: The Socioeconomic Consequences of Lotteries and Off-Track Betting* (New York: Praeger Publishers, 1974), p. 74.

continue to mount. The state was finally compelled to pass an income tax in 1975 and legalized casino gambling shortly thereafter. Similarly, New York began its lottery in 1967 and three years later, legalized OTB. New York has the second-highest, after Alaska, sales and income taxes of any state and at the time of this writing, is considering the legalization of casinos. Clearly, the financial needs of cities and states are not being met, yet it is an anathema for politicians to run on a platform of increasing taxes. Instead, the revenue-generating potential of legalized gambling is oversold to the public by quoting gross receipts, ignoring comparisons of legalized gambling revenue as a percentage of total needed revenue, and promoting the concept of painless taxation.

Since a primary motivation for legalized gambling is to increase governmental revenue, ever larger numbers of bettors must be recruited and hard-sell advertising and promotional techniques are utilized. Thus, the state may proselytize bettors, inducing citizens to violate the tenets of the Protestant work ethic by holding out the tantalizing promise of instant riches. As we have seen, winning large sums of money can serve as a disincentive to work. While such implications are interesting, we suspect that it is not a compelling antilegalization issue. More importantly, enormous numbers of people are placing their aspirations for better lives on the ephemeral possibility of winning. Despite great odds, the public continues to bet. Lottery winners are no exception.

The dream of instant wealth is pandemic among working-class people, but when they get their hands into the mythical pot of gold, significant changes in lifestyles seldom occur. One can be catapulted fr a low to a high economic status ov night, but a lifetime of learning whi composes one's lifestyle chang more slowly. Despite numerous a versities, frustrations, and disa pointments accompanying big wi bettors buy more tickets than befo they won, hoping to win again. W do they harbor such illusions? T answer appears to be that they ha no other option. They do not ma the rules of the games; they just pl and hope that things will work c in the end. As such, they are the arch type of winners as losers, much li C. W. Mills' description of low level white collar workers: ". . . t hero as victim, the small creature w is acted upon but who does not a who works along unnoticed in som body's office or store, never talki loud, never talking back, never ta ing a stand."[23]

The specter of a horde of workir class laborers being lured into b ting parlors, casinos, and racetrac continues to haunt moralists, a some researchers contend that leg ization increases compulsive ga bling.[24] Although the Gambli Commission did not agree with t alarmist-like figure of nine milli compulsive gamblers brandished antigambling organizations such Gamblers Anonymous, it did co clude that there are perhaps 1.1 m lion compulsive gamblers in t

23. Mills, *White Collar*, p. xii.

24. See, for example, Tomas Martinez Marcus Landsberg's review of Weinstein Deitch, *The Impact of Legalized Gambl* in *Society* 13 (November–December 19 pp. 86–87; for a more balanced view of problem of compulsive gambling, see Jer H. Skolnick, *House of Cards: Legalizat and Control of Casino Gambling* (Bost Little, Brown, 1978), pp. 14–23, the best a ysis to date of the problems inherent in cas gambling.

TABLE 3

REGRESSIVITY BY TYPE OF GAME (N = 1,736)

	UNDER $5,000 %	$5,000–10,000 %	$10,000–15,000 %	$15,000–20,000 %	$20,000–30,000 %	$30,000–AND OVER %	TOTAL %
Horses—track							
Percent of income:							
Bet	0.63	0.61	0.35	0.57	0.25	0.22	0.50
Taken-out	0.105	0.101	0.059	0.094	0.041	0.037	0.083
Horses—OTB							
Percent of income:							
Bet	3.03		0.41	0.87	1.15		1.15
Taken-out	0.636		0.085	0.182	0.241		0.241
Legal casinos							
Percent of income:							
Bet	0.98	0.20	0.06	0.24	0.13	0.67	0.27
Taken-out	0.148	0.031	0.012	0.036	0.019	0.100	0.040
Bingo							
Percent of income:							
Bet	0.49	0.64	0.18	0.07	0.06	0.04	0.08
Taken-out	0.162	0.002	0.061	0.022	0.019	0.014	0.027
Lotteries							
Percent of income:							
Bet	0.30	0.23	0.13	0.06	0.06	0.02	0.08
Taken-out	0.16	0.12	0.07	0.04	0.03	0.01	0.05
Sports books							
Percent of income:							
Bet	0.02		0.02		0.11		0.08
Taken-out	0.001		0.001		0.005		0.003
Horse books							
Percent of income:							
Bet	0.09	0.24	0.07	0.03	0.05	0.05	0.06
Taken-out	0.015	0.040	0.012	0.005	0.009	0.008	0.010
Numbers							
Percent of income:							
Bet	0.02	0.19	0.09	0.04	0.02	0.01	0.05
Taken-out	0.010	0.101	0.015	0.021	0.011	0.007	0.028
Sports cards							
Percent of income:							
Bet	0.011		0.04	0.01	0.002	0.003	0.009
Taken-out	0.007		0.024	0.006	0.001	0.002	0.005
Total							
Percent of income:							
Bet	2.53	1.55	1.07	1.16	0.67	1.09	1.15
Taken-out	0.62	0.42	0.29	0.23	0.14	0.18	0.25

SOURCE: *Gambling in America*, *op. cit.*, p. 66.

country. While some people may become addicted to gambling because of its availability, most are only occasional gamblers.

A far more cogent issue than the proselytization of innocent citizens is the regressive nature of gambling. Table 3 indicates that the poor spend a greater percentage of their income on gambling than upper-income groups. Far from being a "painless tax," gambling is an economically painful experience, like illness and the cost of health care, hurting those who can least afford it.

That working-class people are in-

TABLE 4

EXCITEMENT RATINGS FOR 13 GAMBLING ACTIVITIES (N = 1,736)

EXCITEMENT LEVEL	TOTAL SAMPLE	NON-BETTORS	BETTORS	ILLEGAL BETTORS	BETTORS SPECIFIC GAMES
Horses at track	3.98	2.59	4.83	5.60	6.59
Cards with friends	3.74	2.44	4.53	5.30	N/A
Gambling casinos	3.41	2.06	4.24	5.02	5.80
Slot machines	3.39	2.27	4.08	4.35	5.26
Bingo	3.19	2.55	3.58	3.65	5.08
Sports with friends	3.11	2.07	3.75	4.66	5.01
Lottery	2.80	2.05	3.26	3.52	4.11
Dog tracks	2.77	2.06	3.21	3.50	5.50
Dice	2.54	1.90	2.94	3.89	N/A
Horses off-track	2.06	1.63	2.32	3.33	4.35
Sports cards	1.96	1.59	2.19	3.36	5.44
Sports with bookie	1.74	1.47	1.90	2.88	3.87
Numbers	1.63	1.47	1.74	2.18	3.52

Scale: 1 (Not at all exciting) to 8 (Very exciting).
SOURCE: *Gambling in America, op. cit.*, p. 69.

clined to bet more of their wages than the middle and upper classes is understandable, since they have the most to gain socially, psychologically, and economically from the gambling experience. The low pay, boredom, and deleterious working conditions which characterize lower level blue collar jobs provide the impetus to gamble. Sennett and Cobb vividly portrayed these stultifying conditions and their demoralizing effects on lower-class life among whites. Liebow drew a similar portrait for unemployed blacks.[25]

Entertainment

Table 4 lists the excitement ratings of various forms of gambling based upon responses to the Gambling Commission's national survey in 1975. On-track horseracing received the highest excitement rating of the thirteen gambling activities. Bettors rated gambling more exciting tha nonbettors, and bettors of specif games viewed that game as more e: citing than nonplayers. In view (these results, we might assume th as new forms of legalized gamblir percolate through the strata of s ciety, exposing more people to ther the number of occasional gamble will increase as people seek outle for their frustration and boredor Casinos would probably have r ceived a higher excitement rating more people had been exposed them, because the Gambling Cor mission concluded that the excit ment level reported for gambling closely related to the setting in whi it occurs. Therefore, the horseracir industry opposes the legalization casinos because it fears the faste paced pitch of casino play and tl greater participant involvement w lure bettors from the tracks.[26]

25. Richard Sennett and Jonathan Cobb, *The Hidden Injuries of Class* (New York: Alfred Knopf, 1972); Elliot Liebow, *Tally's Corner* (Boston: Little, Brown, 1967).

26. See the Transcript of Minutes of a He ing of the Senate Committee on Casino Ga bling held in the Legislative Office Buildi Albany, New York, 23 February 1978 for formation relating to opposition to casino ga bling by the horse-race industry in New Yo

But there is more to gambling than pleasure. Following the lead of French humanist Roger Caillois,[27] sociologist Robert Herman[28] classified gambling activities into four categories, two of which encompass most of the gaming we have discussed: (1) *agonistic* games which evoke competition and strategy (such as sports betting, horse playing, poker, and backgammon); and (2) *aleatory* games which are predicated on chance, uncertainty, and luck (such as dice, blackjack, slot machines, baccarat, roulette, lotteries and bingo).[29]

It is no coincidence that agonistic games account for the largest proportion of players and money wagered, for embedded in this concept are certain value conceptions about self and society—conceptions encompassing, as we have seen, the role of work and sports in our lives. The agony of gambling is not restricted to purely physical phenomena. As with handicappers and poker players (and even in the case of blackjack which, with the advent of sophisticated counting systems, has been lifted out of the aleatory realm of chance into the scientific world of probability and *agon*), the agony is psychological as well. Triumphs in the world of work are not measured exclusively by economic rewards; recognition and social status also accompany achievement. So, too, does gambling elicit such feelings and, as we have argued, it often becomes a substitute for people who are denied access to achievement, recognition, and self-actualization in work.

Gambling as work

Although one of its primary functions is to provide a respite from work, gambling frequently acquires many of the properties of work. First, aside from its entertainment quality and diversionary aspect, many people risk money in various forms of gambling to maximize their returns. Contrary to Freudian hypotheses, which characterize gambling as masochistic behavior, most gamblers want to win. Second, gambling is an economic activity, and the relationship of gambling to work is apparent in the behavior of players who evince many of the characteristic patterns of thought and activity of the Protestant work ethic which are or can be applied in their jobs. Industriousness, ingenuity, and the quest for achievement are evidenced by the long hours of gaming and the development and execution of intricate systems (for example, roulette, blackjack, and the handicapping of horses, teams, and players).[30]

Consider, for instance, the sport handicapper who must know a myriad of statistical pieces of information and associated trivia displayed in the daily *Racing Form* to comprehend the complexity of his task of "beating the ponies."[31]

27. Roger Caillois, *Man, Play, and Games* (New York, Free Press, 1961).

28. Robert D. Herman, *Gamblers and Gambling* (Lexington, MA: D. C. Heath and Company, 1976).

29. The other two are *Mimicry*, which encompasses cheating, boat races, hustling, three-card monte, and bluffing, and *Vertigo*, which includes marathons, plunging, sentimental betting, and cock-fighting; for an elaboration of these, see Herman, *Gamblers and Gambling*, 4–8.

30. Elsewhere, sociologists have noted how supposedly nonlaborious human activities can assume characteristics of work: Lionel S. Lewis and Dennis Brissett, "Sex as Work: A Study of Avocational Counseling," *Social Problems* 15 (Summer 1967): pp. 8–18; Peter Letkemann, *Crime as Work* (Englewood Cliffs, NJ: Prentice-Hall, 1973).

31. Robert D. Herman, "Gambling as Work: A Sociological Study of the Race Track,"

Sports betting often involves long hours of deliberation and the perfection of skills in discerning the capabilities of players and teams in conjunction with calculating the implications of point spreads. Merchant devoted the entire 1972 football season (nearly four months) to a calculated attempt to beat the odds and his bookies for the purpose of writing a book about his experiences.[32] The agonies and ecstacies which he endured testify to the pressures involved in handicapping.

Similarly, the pain and travail encompassed in the world of the inveterate poker player are evident in the intricate strategies of betting, bluffing, and probabilities. As one habitué of California poker parlors recently noted, "When I arrived in San Diego from Chicago, I came straight to the card rooms and played 14 hours a day for a month. It was the best run of cards I've ever had." For his prodigous playing, he won (dare we say "earned"?) $300.[33]

Blackjack has been elevated to a science with the advent of sophisticated counting schemes; and the industriousness of counters can pay off, much to the chagrin of casinos. One enterprising counter, Kenneth Uston, quit his job as senior vice-president of the Pacific Stock Exchange to ply his new trade which has earned him more than his previous $42,500 annual salary in one weekend. He now operates schools for aspiring counters. Uston and his confederates wear disguises when they enter casinos to begin their lengthy counting vigil which earns them an average of $700 to $900 an hour.[34]

Lottery players sometimes develop their own systems to beat the odds. The most concerted (and expensive) effort to date was that of Mr. and Mrs. Tom Drake who, over a four-month period in 1977, spent $14,100 on tickets and hundreds of hours in a calculated attempt to win a million dollars in the Pennsylvania lottery. For their industriousness, they broke even, but felt the experience was worth it because they were brought closer together, quit dissatisfying jobs, and embarked on new careers.[35]

Gambling and sport as escapism

Social historian Christopher Lasch has noted the escapist benefits from games which, like sex, drugs, and drink, "obliterate awareness of everyday reality, not by dimming that awareness but by raising it to a new intensity of concentration."[36] Just as sports and gambling are proliferating because they offer alternative routes to achievement, stimulation, and status, so, too, are they coming to resemble work in its more mundane configurations. The crowds which line the roads to work are analogous to the throngs at the racetracks and the hustle and bustle on the casino floor. The mechanization of work has its counterpart in the routinization of sport and gambling through natural-science techniques calculated to predetermine (as much as possible) by computers and complex calculations the odds in what were heretofore aleatory or risk-taking ventures.

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in *Gambling*, Robert D. Herman ed. (New York: Harper and Row, 1967), pp. 87–104.

32. Merchant, *The National Football Lottery*.

33. Phil Garlington, "The Poker Players: Bankrolling a Dream," *Buffalo Evening News*, 26 February 1979, p. 15.

34. "Card Counter Tells IRS He's 'Probability Analyst'," *Buffalo Evening News*, 19 February 1979, p. 29.

35. Kaplan, *Lottery Winners*, p. 12.

36. Christopher Lasch, "The Corruption of Sports," *The New York Review of Books* 24 (28 April 1977), pp. 24–30.

Escape becomes more difficult as bettors become losers, games become routinized, and play becomes work. Just as gambling has become a form of work, so, too, does it become sport. The argot of gambling is peppered with transitive verbs connoting motion, energy, activity, daring: "play," "wager," "draw," "bluff," "hit," "shuffle," "parlay," "punt," and "pass." The meaning of these activities is subjugated to the one-dimensional perversion of a society obsessed with immediate gratification, thrill, and ritualistic excitements. What were once expressive meaningful acts, ends in themselves, are transmuted into instrumental activities, means to ends—diversions from reality, synthetic, ephemeral, fatuous, escapist.

Mixing sport and money can lead to the exploitation of both players and public. "Commercialized play," observed Lasch, "has turned into work, subordinated the athlete's pleasure to the spectator's, and reduced the spectator himself to a state of passivity—the very antithesis of the health and vigor sport ideally promotes."[37] The subjugation of sport to the ulterior purposes of gambling and profit-making brings the degradation of work full-circle by demeaning and despoiling a heretofore nonalienating activity, robbing it of intrinsic value and destroying its pleasurable and aesthetic qualities. As Lasch has noted, when games and sports come to be valued purely as a form of escape, they lose the capacity to provide it.

37. Ibid., p. 2.

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The Professionalization of Organized Youth Sport: Social Psychological Impacts and Outcomes

By JONATHAN J. BROWER

ABSTRACT: The notion of professionalism in sport is not a well-defined one. In essence, it is the degree of seriousness and importance given to it by the athletes, management, and spectators. Organized competitive youth sports ostensibly are for the young athletes, but the cross pressures and often overburdening demands from coaches and parents serve to make the sporting experience considerably less than relaxed and recreational.

In most youth leagues the model of how sport should be approached is that of the adult professional ranks—those athletes who earn a living from their sport. The concern with winning above the concern with enhancing the experience of the athlete is at the core of the professionalization of youth sports.

Little League baseball is used to illustrate some of the dynamics and processes by which the young athletes and the adults on the scene—coaches, parents, umpires, and league officials—interact and perpetuate a highly competitive, organized game for youngsters in the mold of the big leagues.

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ORGANIZED youth sports are imitating their official professional counterparts. A Pop Warner football player may be in his tenth year of life and weigh but 80 pounds, yet in his uniform and pads he looks like a smaller version of his National Football League hero. To bring the comparison to the pros closer, the youngster's coach may be ranting and raving and driving his charges just as he imagines famous coaches act in leading their teams to victorious glory. What sports fan cannot rekindle in his mind the image of a tough and unrelenting Vince Lombardi getting every ounce of effort from his loyal and dedicated players?

Peter Gent, former wide receiver for the Dallas Cowboys and best-selling author of *North Dallas Forty*, points out that the bottom line of professional sport is show business and that it is filtering down to youth sport programs.[1]

> For there should be a fundamental difference between professional and amateur sports that goes beyond the technical distinction of whether the athlete makes money from his sport. I learned the difference at the end of training camp my rookie year with the Dallas Cowboys. Management called a meeting to explain the responsibilities of being a professional football player. The man to give the best advice was the team's public-relations director. He told us: "Boys, this is show business."
>
> Professional athletics are first and foremost show business, dealing in illusion and entertainment. The first responsibility of the players is to the audience, not themselves.
>
> On the other hand, in amateur athletics the attention is supposed to be placed on the experience of the athlete. The underlying amateur principle ought to be that the benefits to the participant are not financial, but social.
>
> . . . Amateur sports, by emphasizing the thrill of performance, have the potential to build character, enhance self-esteem and create a nation of healthy, capable, confident, well-adjusted citizens.
>
> Sports can also do the opposite. They can teach cruelty, greed, dishonesty and exploitation. Sports are not intrinsically good.

Children in organized sports are fast approaching the professional model. True, the young athletes do not get paid salaries from their teams, but they do help generate significant amounts of money for their leagues and associations.[2] Moreover, organized youth sport often becomes an activity in which high-level performance and a "polished show" is expected. More often than not the players are embroiled in a difficult situation because of the adult expectations and demands placed upon them.

It is the results of the game and the statistics generated over a season that help make youth sports resemble the professional sporting scene. Winning is the name of the game to the serious competitor and many coaches in youth sports definitely fall into the serious category. Ideally, a child should accept winning with a joy rather than a relief that defeat has been avoided. The dread of failure often creates unsavory strategies employed toward the goal of winning.

A five-year study of little league baseball has helped to demonstrate how organized youth sport operates

1. Peter Gent, "Some Hard Thoughts on Games People Play," in the *Los Angeles Times*, 26, November 1978.

2. The official Little League, Inc. is a multimillion-dollar organization with large cash reserves, real estate holdings, an insurance company, summer camps, and a plethora of other income-producing activities.

and functions in the social psychological matrix of adults and children attempting to model their sport after the pros.[3] The generic term "little league" will be used to include the official Little League, Inc. and all other organized baseball leagues for youth between the ages of 8 and 13.

It is somewhat arbitrary that baseball rather than some other sport has been examined to highlight issues in many team sports for youth. Baseball and football are America's two major sports, and not coincidentally children participating in these sports experience the most pressure from coaches and parents. Simply put, the more status a particular sport has in the society, the more hassles there will be for children playing their scaled-down version of that sport.

The main research approach to the five-year study of little league involved logging hundreds of hours on the field and in the stands observing and interacting with kids, coaches, and parents of many leagues. Clearly, what people actually do and what they say they do when interviewed are often two distinct entities. By closely observing little league practices and games, one is able to observe the many, and often subtle, nuances of behavior that occur during and after the sporting activity.

SETTING THE SCENE: IS THE ISSUE SPORT?

Three distinct sets of people are involved in organized youth sport: kids, parents, and coaches (some of whom are also parents). Each group has distinct goals and expectations of what "their" sport should be. The young athletes want to play, have fun, and emulate their athletic heroes. Parents and coaches have different approaches, often in conflict with each other, and players are caught in the uncomfortable squeeze and pressures of the adult's crossfire. Coaches, for the most part, want to produce winning teams while the parents want one or several results from their offspring's athletic endeavors.

Parents commonly want one or more of the following things from little league sport: a babysitter, an athletic male role model for child-rearing practices, the development of an athletic star, and experiences that produce a sense of autonomy, power, and social and interpersonal skills in their children. None of these parental desires necessarily coexist with the winning desires of the coach. The team coach, for example, may put a player in a position where he can best help the team win, while the parent may desire a future star shortstop.

Many of the adults involved in little league are sports fanatics—generally spectators rather than active, athletes. Wanting to participate in sports, but unable to do so in adult games, they often play out their athletic fantasies in their children's sports. Youth sports are guided mainly by adults who are success-oriented. This is not always in the interest of the children's enjoyment and physical or emotional health. Adult egos too often turn the game into a victory drive or a training ground for future stars, with the children as pawns.

Little league is a highly competitive, organized game for youngsters in the mold of the big leagues. It is a pressure-packed activity that

3. Lewis Yablonsky and Jonathan J. Brower, *The Little League Game: How Kids, Coaches, and Parents Really Play It.* (New York: Times Books, 1979).

apologists of the sport argue is an important method of socialization for future adults in a competitive society. At what age is a child prepared to deal with the rigors of intense pressure? For some kids the competition is a nightmare. Older athletes may be able to handle the emotional rigors, but many youngsters cannot.

A prevailing unintended result of little league is the stigmatization of young athletes. Their failures and mistakes are easy to see. In a sense, little league is a game of errors, and the manner in which children's errors are handled by parents and coaches can prove to be an important input in the development of their sense of self-worth and identity. It is usually the less-skilled players who suffer the most from insensitive authoritarian coaches. The bumbling player, for whom the game is a crucial part of his life and for whom important alternative activities do not exist, may see himself rather than just his baseball skill as defective.

Contrary to widespread belief, there is no reasonable evidence that sports activity of itself builds character. In fact, it has been argued by some sport psychologists that successful athletes generally develop the personality traits necessary for their athletic achievements prior to their involvement in sport. Furthermore, it has been pointed out that not all personality traits beneficial for athletic success are advantageous for personal and social life. The game should be viewed in the context of the child's total sociocultural situation.

Winning . . . the Name of the Game

The bottom line of highly competitive sport is winning. Enjoyment, learning the lessons of life, and physical fitness are, at best, incidental by-products of sport for the intense competitor.

Winning and losing, theoretically, can be approached in a variety of ways. There are two aspects of victory and defeat in little league that relate to life in general. Personal and team losses and wins are distinct entities. On a personal level, a player may have an outstanding day on defense and offense, yet his team might lose anyway. Conversely, a player may experience personal defeat—striking out each time at the plate and making key errors in the field—even if his team wins. For little leaguers, the degree of salience for personal or team victories can vary. Generally, the younger children, new to the cultural values and socialization process of competitive sport, opt for personal victory as the more important. The older, more seasoned and sophisticated athletes are concerned, at least publicly, with team victory.

Little leaguers sometimes find themselves in a confused state in terms of where their priorities should be placed—whether they should be focused on a personal or a team victory. This confusion is not a problem for most coaches. They are consumed with striving toward team victories and frequently at a high cost. From their perspective, any win is good for their kids. The coaches' obsession with winning is usually derived from their veneration of the big league ballplayers' viewpoint.[4]

4. In reality, many major league baseball, football, and basketball players are more concerned with their personal performance than they are with the team. Incentive clauses in many contracts offer additional money to a player who does exceptionally well in various

The dominance of the win ethic often interferes with one of the alleged basic goals of little league coaches—teaching kids to play baseball for fun and enjoyment. The "rational and safe" strategy for getting on base in little league illustrates the irony of the win ethic obstructing the teaching of baseball skills. Many of the youngest little league pitchers have poor control; usually if the opposing batter waits out such a pitcher he will get a walk. A common practice for coaches who place winning above the child's development or fun in the sport is to have their players keep their bat on their shoulders and get a base on balls.

Another "rational" bit of coaching strategy is to play the least skilled players the minimum number of required innings (usually one time at bat and one half inning on defense or two defensive innings with no required at-bat!) at the beginning of the game before they can do too much "serious damage."

For the coach, winning may mean more than beating just another team. Sometimes a coach is intent on beating another manager with whom he has an intense rivalry that usually stems from matters far removed from the baseball diamond. Here the children become the pawns of an adult ego struggle. In one illustrative case, a coach told his team that he wanted "to beat the other manager." It was a preseason practice game, but he told his players, "Practice games shouldn't really matter, but I really want to beat his ass!" The coach felt it crucial to establish his ascendancy over his opponent who had many league championships under his belt and who also was a successful business competitor in the same field as the win-hungry coach. Because of the intense rivalry of the coaches, the players became pawns of the coaches. Winning for "the coach's sake" was resented by many of the team members, but like good soldiers they went into battle and followed orders. Such win-oriented coaches see their team as their ticket to higher status in the league and community.

It is an infrequent occurrence that a coach, one concerned with the child's physical and emotional states, is not only interested in the players on their team, but also in all of the other kids in the league. Such a coach will give a child on a rival team some pointers on playing better, but this is a rarity among coaches. Baseball from little league to the professional big leagues is not supposed to be played this way.

External authority: keeping people in "line"

It is contended that youngsters who participate in organized sports can learn how to become more effective citizens. Such a contention has some validity, but perhaps it is overstated. In little league, a child does encounter socialization valuable for learning and accepting rules of organization, prescribed and proscribed behavior, and a multitude of other aspects of group life and interaction. The little leaguer also develops a sense of self and personal status in the overall league organizations.

The role and function of the umpire has a profound effect on the lessons and socialization of little leaguers. Umpires are supposed to maintain "law and order" on the

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aspects of athletic performance, such as unassisted tackles, runs batted in, and number of rebounds in football, baseball, and basketball, respectively.

baseball field; they tend to function as judges, cops, and, in the opinion of many league participants, "robbers" during some games.

Winning teams are more likely to approve of the umpire than losing teams. At times umpires are seen by losers as a part of the reason victory has escaped their grasp. Some coaches, in victory and defeat, view *umpires as an impediment to the way baseball ought to be played, especially when the men in blue curtail such coaching prerogatives as engaging in histrionic displays over a close call, orchestrating deceptive and dishonest baseball* strategy and tactics, and encouraging "legal" but dangerous macho baseball maneuvers.[5] Yet underneath their desire for creativity and autonomy that goes beyond the bounds of appropriateness and safety for little league athletes, most coaches, even those who criticize strict umpires, want and respect umpires who can keep them and other coaches under control.[6]

Little league umpires have a most difficult job. The traditions of professional baseball legitimize hostile behavior toward the umpire. In the interests of the children, little league baseball is supposed to ignore this model of unruly behavior. Umpiring in little league is a way to make some extra money and to indulge in one's love for the game. While some umpires go to umpiring school, they are not of professional major league caliber. Yet coaches, parents and kids often expect major league performances from them. To complicate matters, often one umpire behind home plate has to make the calls for all the aspects of the game. Stationed behind home plate, umpires are going to make some *questionable calls at second and third base. Rarely do players, coaches, and parents take this into consideration when they argue and shout about "bad calls." A valuable lesson that often escapes the little league* participants is that umpires are human beings with imperfections that will have a bearing on the outcome of the game and the feelings of the players and coaches.

Baseball tradition has sanctified the arguments (and the rationale for umpire baiting has been institutionalized) that players, managers, and coaches have with umpires. Little league coaches, like their big league counterparts, are aggressive toward umpires to "protect" their players and inspire them by keeping the umpire in a defensive position. Little league baseball and other organized sports for kids have long been praised for developing sportsmanship and fair play. A dictionary definition of sportsmanship reads: "The art of practice of field sports; honorable or chivalrous conduct." The latter part of the definition is what most people conjure up in their minds when using the concept. However, it is the former definition that applies to the conduct or organized sport. The art or practice of sports includes using all "reasonable" tactics to win. Getting away with undetected rule infractions and taking advantage of an umpire's mistake has become institutionalized

5. Female umpires are a rarity in all of baseball, from the little leagues to the professional ranks. Positions of such authority, involving the ruling over the protests of burly male athletes, are jobs for men, not women, according to the cultural traditions of male-dominated baseball and American sport.

6. It is not uncommon for a board of directors to fire or chastise an umpire who cannot keep the adults in control even when some of those out-of-control adults are the board members themselves! It is as though these men desire a strong parental authority to take the place of their superego.

as "part of the game." Rather than using the little league game to enhance identification with the authority figures in blue, coaches often exploit baseball's tradition to view the umpire as an adversary.

Parents and coaches

The main roles played by adults in the little league game are those of parent and coach. While there is some overlap between these two roles, there is much separation and distinctiveness between the two. The number one complaint of coaches is the meddling parent who causes trouble for the team when worrying about and lobbying for their child. A common lament of parents involves the plight of their child who, one way or another, as the parent sees it, is not getting enough attention, support, or playing time, from the coach.

Many little league parents have extravagant needs for their child's stardom on the field. These parents' wishes are not geared to the child's success and self-satisfaction, but to their own vicarious needs. Often parents use their children as extensions of their own ego needs. They push their child very hard to win because they like to bathe in the reflected glory of their child's victories. The pressure on these children is immense; if the young athletes do not measure up to the hopes, expectations and even demands of their parents, they are held responsible for making their parents unhappy. Such an internalization of guilt is an overwhelmingly grim predicament for any child.

The better players help provide their parents with high social status in the little league world in the same manner as an expensive car provides its owner with high social status at the country club. Parents and their ego extensions are aware of this status factor on subtle levels, and it adds to the young athlete's burden of satisfying mom and dad.

Many parents in the stands cannot refrain from expressing their often erroneous opinions and coaching from their sideline seat. This is often a source of discontent for both coaches and players. Parents yelling baseball instructions to their children not only make the young ballplayer uncomfortable and usually more inept, but also infuriate the coaches who do not want confusing and contradictory advice given to their players.

The fans, in any kind of athletic contest, have some influence, large or small, on the participants. In little league, the impact of parents is often subtle but profound. The fact that many parents feel too inhibited to speak up to the coach creates in them resentment and hostility toward the coach, and the situation often becomes all the more emotionally complex between parent and coach with the child caught in the middle.

In little league baseball there are differing points of view on whether coaches should simply teach technical baseball skills or go beyond this, giving individual attention to the emotional needs of each player. Most coaches have neither the interest nor the skills to deal with their athletes as young children who have a complex and often fragile social psychological matrix.

Two extreme prototypical types of coaches seem to emerge on little league fields across the country. While these are stereotypes, they do point to the orientations coaches can and do have toward their young players: there are humanistic coaches and macho coaches.

The humanistic coach cares about children as children rather than as miniature athletic studs. He wants to win games, but he is not preoccupied with winning. He knows how to relate to children, and instills baseball practice and games with an aura of fun.

The macho coach is egocentric, bent on winning at any cost. He has an overt disdain for kids who do not play baseball well, is supercritical and caustic in his demeanor toward his players, and is relatively unaware of emotional conflicts in his young athletes.

Outstanding players who are emotionally secure are relatively unaffected by the macho coach. On the other hand, poor players with some problems of low self-esteem found macho coaches to be devastating.

It is rare to find a player who likes and responds well to a macho coach. Children tend to suffer through a season under this type of coach. They develop considerable hostility toward such coaches, and their anger is often displaced onto teammates and sometimes rival players, too, in the form of squabbles and excessive teasing of weaker players. Significantly, the aggressive macho coach tends not to curtail these predatory patterns of their displeased players; he covertly supports the attack by the better athletes on the poorer ones.

THE CHILDREN'S WELFARE

The little league game is a situation in which all eyes and attention are focused on the pitcher, batter, and players fielding the ball. It is rare that children have so many others—peers and adults—watching and examining their moves in a high-pressure context. Consequently, the little league game is usually a very emotional experience for a child.

Children's stress and physiological response has been studied by Dr. Dale L. Hanson.[7] He found that little league players at bat experienced high emotional stress as manifested by their rapid heart rates. Yet most of Hanson's subjects said they did not find the "at-bat" situation stressful or nervewracking. When players finished batting, their heart rates rapidly and significantly dropped. Little league baseball often produces a covert tension and stress that the players refuse or are unable to acknowledge.

If the children on the ball field do not acknowledge their tension and stress but attempt to keep a private and tight lid on their feelings, is it not the responsibility of the surrounding adults to alter the situation? Just as batting helmets are used for the youngster's safety, should not safeguards be employed that make the game a positive social psychological experience for the young athletes?

When we adults organize children's sports, we often try to make our children what we wish we could have been but never were. Inevitably we project many of our unfulfilled aspirations on them, and perhaps this is not entirely bad. But imposing our aspirations on them is another matter; it becomes a burden from which they may rebel. Manipulating children on and off the field to the extent that often occurs in highly competitive sports is not in their best interest.

7. Dale L. Hanson, "Cardiac Response to Participation in Little League Baseball Competition as Determined by Telemetry," *Research Quarterly* 38:3 (October 1967).

ANNALS, AAPSS, 445, Sept. 1979

The Child Athlete: Psychological Implications of Participation in Sport

By BRUCE OGILVIE

ABSTRACT: This article is directed at those parents and other adults who are responsible for the design and philosophy of the competitive sports program for the 30 million of our children who are now actively competing. It is hoped that by pointing out a number of the important dangers present in competitive sports, certain psychological and social traumas may be reduced. A review of the structure and social aims of most children's sports programs forces us to pose the question, "Is the sports experience really child centered or are we imposing a model for participation derived from our observation of professional sports?" If the sports activity is to be child centered, we must remind parents, coaches, and fans that the rewards for the child must be determined on the basis of their intrinsic needs. An attempt is made to prepare parents and coaches to be more objective in their determination of the child's readiness to compete in highly demanding athletic programs. Psychological, social, and physical readiness are reviewed. Particular attention is directed to the psychological threats imposed upon the child who does not receive this level of our concern. Recommendations are offered as to how the sports experience can enhance the child's image and form the basis for sound mental hygiene and increased joy.

Dr. Ogilvie received his Ph.D. from the Institute of Psychiatry at the University of London. He is currently a Professor of Psychology at San Jose State University where he was also director of the Institute for the Study of Sports Motivation. He is a fellow of the American College of Sports Medicine and a member of the North American Association of Sports Psychologists. He has been a psychological consultant to the United States Olympic Teams of 1964, 1968, 1972, and 1974. Twelve teams of the National Football League have used his services as have several teams in the National Basketball Association (NBA) and major league baseball. At present, Dr. Ogilvie is working with the Pediatrics Department of the Los Angeles Childrens' Hospital studying psychological stress among children.

AMERICAN College of Sports Medicine has as its stated goal the education of the public as to the wholesome values of recreational sport for children as well as adults. The most recent estimate is that 20 million children between the ages of 9 and 16 are now participating in sports programs.

What should be the priorities and goals for parents, educators, or scientists when speaking of the potential value of youth sport? Certainly health maintenance would be important as would the reinforcement of health habits to reduce the incidence of the leading health problems that plague our nation. But what about the potential value that follows from giving every child the opportunity to develop good feelings about his worth as a person. The question then becomes, "how do we provide an athletic environment that will contribute to each child's physical and emotional health. Priority number one for me is the goal that every child should eventually feel more self-loving as the result of a sport experience. Why then have so many youngsters been driven away from the activity which was originally both positive and self enhancing?"

THE INTRUSIVE PARENT

One of the most prevalent problems is the intrusive parent. Recently a prominent tennis coach referred a 14 year old girl to me who was described as the next Billy Jean King. Though she had been unusually successful as she moved through the various age group levels of competition, her tournament play had seriously deteriorated. In the few hours we were able to spend alone together she presented a classic history that illuminated the true nature of her conflict. First, she was the youngest of three children; both of her siblings had quit tennis after having attained a high level of tournament success. She described the oldest sister as being the most gifted athlete and felt she would surely have become a professional. For herself she expressed a deep love for her sport though in a number of ways she felt trapped by it. The more we delved into these trapped feelings the more the role of her father's participation in her life became apparent. As she became free to talk about him, he began to fit into the classical mold of the "intrusive parent." The degree to which he has crowded into her life and intruded upon her private world as a competitor was literally pushing her out of an activity she loved.

A few of the most obvious examples of his inability to maintain an emotional distance from his child competitor were:

> He was continually finding fault with her coach. The coach had been hired by the father based upon his national reputation for developing young talent.
>
> He constantly humiliated her when she did not win by the score for which she was capable based upon his judgement.
>
> Should she lose to any competitor years or months her junior she would be subjected to days of questioning.
>
> He took every occasion to match her performances with those of a particularly successful young lady who was exactly her age.
>
> The most painful and discouraging experience for her was to observe the neglect of her siblings and her mother during every meal while he took every opportunity to verbally beat her into becoming a champion.

How then does one play a wholesome supportive role in the life of the aspiring child? The ideal would be that the parent should be a guest in the life of the child. This would permit the child to remain in control and to invite the parent to share whatever he might be experiencing depending on the child's need. The child competitor should be in control of his own life and have total responsibility for valuing the experience in personal terms. Certainly the caring parent will identify with his child and, one hopes, derive vicarious satisfaction through this process of identification. In order not to intrude upon the life of the child this satisfaction must be attained at a distance. This distance should be based upon the child's need to be master of his/her own experience.

Thus the talented tennis player described above was beginning to sense that her father had lost all awareness of the natural limits that should exist between parent and child. She knew his persistent criticism was not motivated by love but rather by a desire to fill a gap that existed in his own life. This unconscious quest for need fulfillment on the part of parents has driven more competent young people out of sports participation than any other single human factor.

INTERNAL VS. EXTERNAL SPORTS MOTIVATION

When we study both the short and long term effects of sports participation, those of us who are sincere in our concern for the child's welfare must confront the following questions: "Is this particular child involved in an athletic activity that has intrinsic value and will the activity contribute to feelings of self-worth?" Therefore, the crucial insight will be dependent upon our capacity to distinguish between the internal and external motivation of each child.

Should we make a studied, conscious effort to gain such insight, we will then have the capacity to direct the sports experience toward emotional growth and self-acceptance. This warning has particular significance in relation to the child's desire to master the wide range of motor skills essential for sports participation. As the child advances from the unstructured, low pressured level of recreational games to the highly structured, high pressured level of competitive sport, the emotional and physical dangers multiply significantly. It will be during this transitional period that the most fundamental needs of the child may be sacrificed in favor of values that have the lowest potential for contributing to emotional growth.

Participation in loosely organized neighborhood sports is motivated by fundamental childrens' needs which are almost exclusively intrinsic in nature. Freedom of expression, joy, and emotional release are combined with important social rewards to produce a positive effect. This setting is ideally suited for establishing a meaningful identity for the child as well as integrating important human values. When the child moves up to the next level of organized sport, the parent will be obliged to confront the issue of wholesome vs. unwholesome sports motivation.

The importance of opening up a two-way discussion with the child at this point cannot be overstressed. Open inquiry should enable the child to explore the significance and meaning of athletic participation in terms of very personal goals. Such

questions as: "What are you seeking from sports competition?," "Can you tell me why you have such an interest in competing?" "What do you find so attractive in competitive sports?" will start the process of reflection on the part of the child. This process should also stimulate reflection within the parent who may or may not be encouraging participation.

Pop Warner football, Little League baseball, age group swimming, and league soccer, like many other highly competitive programs, each possesses an inherent danger for the child. This danger will be generated by the great increase in external rewards that are employed to motivate participation. The child will experience in varying degrees an inner struggle as competitive demands clash with recreational needs. The motivational force of being evaluated by grading, drafting, and other forms of external judgments begins to take precedence over more wholesome motives. The American value with respect to winning is readily introjected into the value system of the young competitor. Even though there is some evidence that our society is beginning to seriously question this value, there is little evidence that a values reorientation is occurring in North America.

The child gradually loses touch with their more important innermost feelings as they succumb to the pressure of the external criteria that guide sports participation. The symbols and signs imposed by the competitive sports setting gradually distort the intrinsic value of the activity. What were trivial secondary values now take on a potency entirely out of proportion to any possible value they can have in terms of contribution to feelings of personal worth. The price the child pays for the exchange of inner for outer sources of motivation is the experience of a range of new stresses which are of questionable value. The child with special motor gifts will have the highest probability of being exploited in athletics. Thus, it becomes important to help him and his parents examine the potential negative factors associated with athletic success.

POTENTIAL NEGATIVE FACTORS IN THE COMPETITIVE SPORTS PROGRAM

The most potent danger follows from the transfer of the power of judgment on a child's worth from peers and parents to other adults who, by virtue of their positions of authority, can make determinations about the child as an athlete and person that are quite traumatic for the child's self-concept. The child between the ages of nine and twelve is not able to separate discrimination based upon ability from those judgments that may be related to their worth as a person. The judgment is experienced by the child not as a statement restricted to a single physical attribute but as an inference as to their total worth. A child first encounters this experience in the rigid selection process that typifies most youth programs. This process imposes stresses that have been unusually traumatic for many children since it may be the first time a child is told he is "not good enough" or lacks some valuable character trait.

Children are quick to adopt the value placed upon winning and readily submit to the pressure to achieve this end. It is still surprising to find so few adults who are aware of the power they possess with regard to the "feeling—life" of the

youthful competitor. The power in the role of "coach" will be directly proportional to the individual child's need for acceptance by that adult. In actual consultation experiences in youth sports it has been found that some children will give their coach near divine status. In a study of world class and Olympic female swimmers by Linda Gustovson, we found that six to twelve years after the completion of competition these women still rated their former coaches as the most significant adult in their lives.[1] Thus, the child's need to transfer to others the determination of his worth as a human being creates problems both for the child and the adult in the authority role.[2]

The vulnerability to danger varies with the personality strengths of the child within the program as well as with the degree of sensitivity of the adult teacher or coach. Very few studies offer research findings that would provide the basis for gaining the insights that would enable us to identify the highly vulnerable child. However, three studies of highly competitive youth sports conducted in Santa Clara Valley of California revealed the following personality trends in the vulnerable child. These children tended to be hyperanxious and had an elevated fear of failure; they were more sensitive to criticism and experienced higher levels of guilt; and they measured slightly lower in terms of their capacity to deal with abstract learning material.[3] These same fin ings distinguished between bo boys and girls between the ages nine and fourteen who had th highest probability of being elim nated from competitive swimmir as well as youth football.

Recent research by Sonstroe serves as a warning that cautic should be used with respect determining whether the sport exp rience will be traumatic for ar given child.[4] His research indicat that the "self esteem" of the chil must be considered as fundament and that the sports experience ma contribute positively to esteem, b only if other factors such as coach evaluation are taken into consider tion. The child's attitudes with r gard to the attraction of the activi and the degree to which the chil believes himself to be capable achieving success at the activity wi determine the value of that activi to the child. Sonstroem reinforc much of the previous research his finding that favorable "sel perceptions" of their physical abili characterized those boys who we adjusted, not neurotic or found have personality disorders. The findings enrich our understanding the highly reliable relationship b tween motor skill and peer accep ance. Had measure of self-estee been included in such research appears that motor skills and th positive attitude would be high related.

It is unfortunate that most of wh we have discovered about the pote tial negative effects of the stress in competitive youth programs h

1. L. Gustovson, and B. C. Ogilvie, "Followup Study of National and World Class Female Swimmers," (Master's thesis, California State University, Humbolt, 1977).

2. B. C. Ogilvie, "The Unconscious Fear of Success," *Quest*, May 1968, pp. 23–32, and B. C. Ogilvie, "Success Phobia," *Sport and American Society*, ed. George H. Sage (Reading, MA: Addison-Wesley, 1970), pp. 217–235.

3. L. Rhode, "The relationship of p sonality factors to participation in age-gro tackle football," San Jose State Universi 1969.

4. R. J. Sonstroem, *Medicine and Science Sport*, vol. 10, no. 2, (1978), pp. 97–102.

been gained from the study of individual case histories. No longitudinal studies that have followed samples of children through their competitive years from age nine to eighteen years have been reported. The children who are willing to commit themselves to highly structured programs requiring two to three hours practice per day have demonstrated unusually strong motivation. When we examine ego commitment of this order in relation to such intense motivation we must begin to assert our will and demand that every program reinforce positive self-regard. There is a growing number of professionals in the mental health field who have come to the conclusion that a positive sense of identity is far more essential for confronting reality than any other human emotional set.[5]

Another more subtle danger for the dependent child is the possibility for exploitation when the sports activity is adult centered rather than child centered. The children who survive the intense selective process in most competitive programs often become extensions of the coach, team, organization, and possibly even the fans. The children are expected to perform for others' expectations, others' goals, not their own. That is exploitation. These statements have even greater impact if they are picked up by the media.

In order to gain a better perspective as to the stresses for children it would be wise to look ahead to the stresses experienced by the mature competitor. The sources of stress do not change but the quality of the stress intensifies remarkably as we move up the competitive ladder. Some forty percent of our Olympic Team members experience a level of emotional stress sufficient to cause them to seek some psychological intervention prior to their event. Miroslav Vanek, psychologist to the Czechoslovakian Olympic Team, reported that one-half of the entire team at the Mexico Games sought some psychological support from a professional.[6] In the case of these athletes I have been able to observe the compounding effect of the demand for achievement and the pressure of national pride. Not only must they perform well, the Olympic athlete must also be a positive example to the world for a national ideology. The Olympic committee indoctrinates athletes with feelings that their performance will reflect directly upon how other nations view their country. This represents the height of human exploitation in sport.

Bryant Cratty has reported that five to seven athletes on a professional team can be expected to display symptoms of psychological stress such as ulcers or sleep problems.[7] He goes on to state that within any forty to fifty member roster of the typical high school football team, one or two are on the verge of a nervous breakdown during the season, while twelve to fifteen could benefit from some kind of psychological counseling. During my consultation with NFL rookies in training camps, over a five year period, several of these highly select athletes needed some form of psycho-

5. K. J. Gergen, *The concept of Self* New York Holt, 1971).

6. M. Vanek, and B. J. Cratty, *Psychology of the Superior Athlete* (London: MacMillan, 1970).

7. B. Cratty, "Psychological Health in Athletes in Sports Psychology," pp. 209–215, ed., Wm. Straub (Ithica, NY: Movement Press, 1978).

logical intervention. It has not been possible to determine accurately the number of rookies who have failed to make the team for emotional rather than physical reasons. When one finds such emotional conflicts within samples of the most highly select athletes in America, one can only imagine the number of emotionally vulnerable and even stable children who experience stress as a result of their participation in sports.

ORGANIZATION OF THE CHILD'S SELF CONCEPT

It is extremely important, if our concern is the development of the whole child, that we attend to what respected authorities have to teach us about child development. Specific to this discussion is the establishment of the child's unique sense of identity. Erik Erikson postulates eight progressive steps on the path to ego integration, the period between seven and twelve years of age being of fundamental importance.[8] This is the period of time in which the child must be provided with the opportunities and experiences that will enable them to master feelings of inferiority. One of the major opportunities for mastering these fears is the testing during physical interactions with their peers. Group games and play provide objective feedback as they experiment with roles they are acting out with their playmates. These early experiences form the foundation for their "super ego" or conscience and become the stable basis for deep values which will guide future judgements and actions.

It is through these interactions with other children that they learn the boundaries of their own existence and integrate a highly individualized self-concept. If the social learning is positive we expect the child to have gained the following emotional strengths: the importance of personal sacrifice, the capacity to identify with the needs of others, ability to honor consensus rules or agreements, and a wholesome dependency relationship with others. Severely competitive and highly organized youth sport activity restrict such learning because interaction is reduced to mechanical role performance (such as playing second base) supervised by an adult. Under these conditions children no longer negotiate with their peers for a place in the field. It was in this process of negotiation that social skills and mental strengths were acquired.

This is also the period when negative social learning produces feelings and attitudes which are seriously self-limiting. If the child is exposed to social rejection, villification, or humiliation then his self-concept will be negative. When the social influences during these critical years reinforce feelings of self doubt, self-depreciation and low self esteem, even superior motor ability does not provide the emotional rewards necessary to compensate for such feelings. Children so conditioned remain highly vulnerable when confronted with the ordinary demands that are placed upon every developing child. Children with low self esteem become adults with "success phobia," "unconscious will to fail," "unconscious fear of success," and a variety of other syndromes.[9] These children

8. Erik Erikson, *Childhood and Society* (New York: Norton, 1963).

9. B. C. Ogilvie, and T. A. Tutko, *Problem Athletes and How to Handle Them* (London: Pelham Books, Ltd., 1966).

become the adults who, in spite of unusual physical talent, become trapped by their negative feeling to the degree that their true potential is never realized.

ACHIEVEMENT AND MOTOR SKILLS ACQUISITION

Before any child can move on to the next level of emotional maturity or physical development each must contend with a period of "non-achievement." This fact must be recognized by the significant adults in youth sports. Every child will fail at one time or another. The learning environment should provide each child with the understanding that their development will be characterized by spurts forward followed by periods where skills may remain stable or even deteriorate for a brief period of time. In order that the child not interpret motor skills acquisition in terms of failure, they should be helped to feel comfortable during this transitional phase of their development. The concept that I have found best for the youthful competitor is that "success is nothing more than the positive utilization of failure." Every increment of growth, whether it be physical, social, or psychological, will be achieved through the process of climbs, plateaus, and dips. We must help the child and the coach accept this reality of life and not use it as the basis to depreciate themselves or others.

It is not necessary to be a specialist in child development to recognize the reality that motor skills acquisition is also dependent upon constitutional factors that are beyond any form of social control. Innate potential has been determined at conception. The process of physical maturation is under the control of a unique inner "biological time-clock." Bone length, muscular strength, and motor efficiency have been predetermined and the upper limits set. However, the fact that the probability of any given child running a 9.1 one hundred yard dash is limited by constitutional factors does not mean that those who will not excel to this level are to be neglected or discouraged in their efforts to maximize their even limited potential. The selection process in youth sports often eliminates this young person in favor of the more skilled or matured youth.

If the sports experience is to be truly self enhancing, care must be taken to honor this biological time-clock. The greatest threat to the child is the imposition of unreasonable adult standards. So many parents and adults who are responsible for competitive youth programs fail to remember they are dealing with children in a children's world. They tend to treat the child as a miniature adult. They behave as though they have a need to stamp out the childhood years and force the child into their adult world. The impressionable child accepts these neurotic unrealistic goals of the adults and feels guilty when he can't measure up. Those in positions of authority must realize that such factors as chronological age are not a reliable measure of any given child's physiological age, emotional age, or mental age. Many athletes have almost been "punished out" of their sport because some adult refused to accept the reality of physical readiness. By not being able to measure up to these adult expectations the child experiences the stress of failure. In fact, he may reduce this stress by

simply leaving the sport for more serene activity.

OBJECTIFYING THE CHILD'S FEELING TOWARD SPORT

It has only been in recent years that research has been designed to form the basis for objectifying the youthful athlete's feelings and attitudes toward competition.[10] Though the concentration of research interest has been directed toward distinguishing between trait anxiety and state anxiety, other significant attitudes have been examined. Investigators have been able to discriminate between those children who characteristically function at such a high level of anxiety that it influences dramatically their physical response to the competitive situation. This is defined as trait anxiety which some authorities attribute to constitutional factors.[11]

State anxiety is measured in relation to specific competitive situations. Primary interest in state anxiety is concerned with unique response tendencies within each child in relation to specific stress factors in the competitive situation. Scanlan and Passer reported that the level of post-game stress experienced by the child was related to whether the team won or lost and how close the game was; the closer the game the higher the level of stress experienced.[12] The level of stress was also related to the reported amount of fun during the game, the child's basal anxiety level, and the perceived importance of winning for the coach. This kind of work takes on particular significance because it brings us closer to being able to identify, with greater objectivity, important unique features within the personality of the child competitor.[13]

One important area of research conducted at the Institute for the Study of Athletic Motivation at San Jose State University was the attempt to identify personality traits that seemed to support athletic performance.[14] Based upon this research, an athletic motivation inventory was designed to measure eleven personality tendencies related to sports participation. Significant for this discussion are the traits "athletic drive" and "athletic self-confidence." The questions for the drive factor were designed to measure the level of ego commitment the individual felt they made to competitive sport. The items related to athletic self-confidence attempted to assess the degree to which the individual felt physically competent to achieve their goals in sport.

The following questions are similar to those in the athletic motivation inventory but are only intended as examples that can be used to begin the process of enquiry. They have not been standardized, so no reliable scoring system can be inferred. Nevertheless, they are adequate to give some direction for exploring a child's motivation.

10. T. A. Tutko, L. P. Lyon, and B. C. Ogilvie, "Athletic Motivation" Inventory Science Research Associates, Inc. Palo Alto, CA, 1975.

11. C. D. Spielberger, *Preliminary test manual for the State-Trait Inventory* Science Research Associates, Inc. Palo Alto, CA, 1975.

12. T. K. Scanlan, and M. W. Passer, Medicine and Science in Sport, vol. 10, no. 2, (1978) pp. 103–108.

13. R. M. Nideffer, *The Inner Athlete* (New York· Thomas Y. Crowell, 1976).

14. B. C. Ogilvie, "Personality Traits of Competitors and Coaches," *Modern Medicine*, June 1972, pp. 61–68, The New York Media Company, Inc.

letic motivation

I set high goals for myself in sports.
a) never b) sometimes c) frequently
To be successful in sports is of great importance to me.
a) never b) sometimes c) frequently
I respond to athletic challenges.
a) never b) sometimes c) frequently
I think about myself as succeeding in sports.
a) never b) sometimes c) frequently
I set high goals for my teammates.
a) never b) sometimes c) frequently
Winning is the only thing that counts in sports.
a) false b) not sure c) true
I never settle for less than my best as a player.
a) false b) not sure c) true
I can take competition or leave it alone.
a) false b) not sure c) true
I daydream about my athletic success.
a) never b) sometimes c) frequently
I become more motivated in sports after losing.
a) false b) sometimes c) true

e following sample of questions can provide an opportunity for the child eflect upon his level of self confidence.

iletic self-confidence

I feel that I have what it takes to be a successful competitor.
a) rarely b) sometimes c) frequently
It is easy for me to concentrate and learn a new skill.
a) sometimes b) most often c) frequently
When the coach demands it I can give more.
a) rarely b) sometimes c) frequently
I like to match my skill off against others.
a) rarely b) sometimes c) frequently
. I can talk back to my opponents.
1) rarely b) sometimes c) frequently
. At times I can teach my teammates things.
a) rarely b) sometimes c) frequently
. The coach uses me to demonstrate certain skills.
a) never b) sometimes c) frequently
. I enjoy being used as the example of how to do something.
a) never b) sometimes c) frequently
. My fellow teammates sometimes say that I'm cocky.
a) never b) sometimes c) frequently
. It is easy for me to bounce back after I've made a mistake.
a) rarely b) sometimes c) frequently

These questions could lead to others which measure their feelings with respect to athletic endurance, ability to express dominance or aggression, and the degree of emotional control they can muster when it is essential to do so. It has been particularly helpful to find out what their feelings are toward the coach and also their capacity to trust others since the child is often being manipulated by feelings, based upon past experience, that still function to inhibit freedom of expression.

It is not the intent of the foregoing paragraphs to prepare the average adult in the art of counseling. But, the questions can still provide for more sensitive and insightful communication. When the child senses sincere interest in how he responds to such questions, invariably the door to communication swings open. As the child spins back within himself looking for personal meaning, there will be a validation of real feelings that far exceeds that of any standardized questionnaire. Inventories and questionnaires should only be employed on an individual basis to begin the search for an authentic self, never under any circumstances to label or categorize children.

CONCLUSIONS

It has been well established by those investigating the psychological needs of children in sports that intrinsic motivation provides the most reward for the child. It generates a commitment which is more wholesome and has a more powerful, positive motivational force. Ideally, if we could remove the manipulative quality of extrinsic motivation, we would find the child participating for the pure joy and satisfaction the activity provides. However, it is natural for the child to respond to the extrinsic factors such as prizes, acclaim, and recognition because status and prestige are important to any child. But, these factors should be much lower on the priority list.

The child should not be permitted to lose sight of the primary goal which is essentially a renewed sense of control over their world. The pursuit of excellence has the strongest motivational force when it is contingent upon personal improvement. Therefore, parents and others who are responsible for the development of our youth should see their primary role as follows:

> To help the child gain insight into primary needs;
> enable him to comprehend the danger should they succumb to extrinsic motivational factors to the exclusion of more personal motives;
> guide the child away from making the sports experience a measure of their worth as a person;
> help him avoid making the sports experience a proving ground;
> enable the child to comprehend that the pursuit of physical excellence can only be measured in uniquely personal terms and that his limits have been set by constitutional factors;
> remind him that coming to know himself better and liking himself more is the most worthy goal of all;
> finally, help the child to see that no matter how remarkable the physical gift, it can never be used to prove one's worth as a human being.

The President's Committee on Physical Fitness has emphasized

values that promote health maintenance by reinforcing fitness, health attitudes, and wholesome recreational needs. Its goal has been that of promoting those programs that will reduce the incidence of heart disease as well as the whole range of human stress related physical and emotional disorders.

As a mental hygienist I would strongly support the goals of the President's Committee but would be more definitive in terms of mental health goals. The following recommendations are made with respect to meeting these goals:

The sport experience should be designed in a form that would permit every child to develop strong positive feelings about their bodies. The end effect should be a "positive body image." This stated value has the support of a vast body of data that may be summarized as: "personality integration is fundamentally tied to the phenomenological picture the individual has of "self." It is well established that a negative self image contributes to feelings of self depreciation, self degradation; questions of personal worth, and the inability to receive approval from others.

The sport experience should contribute positively to the child's ability to identify more sensitively with others through shared experiences both physical and emotional. Each child should have the opportunity to build bridges of positive feelings with others. A most important growth experience will be through the inevitable process of failure and success which may lead to the development of the human empathic quality. The child will not only be able to understand the experience of another, but also to feel deeply in relation to another. Many educators will hold this as the highest goal which, in more idealistic terms, may be described as "enabling the child to get in touch with their common humanness."

The sport experience should condition attitudes that health maintenance through some form of physical expression does increase one's joy of living. There may be forms of physical expression or specific activities that would free the individual to experience "peak experience" as defined by Maslow.[15] Through the "self actualizing" process potentially present in any recreational activity, each child can become capable of defining success in his own personal terms.

15. A. Maslow, Towards a psychology of Being, 2d ed., (Princeton, NJ: D. Van Nostrand, 1968).

ANNALS, AAPSS, 445, Sept. 1979

The Campaign for Athletes' Rights

By KENNY MOORE

ABSTRACT: Amateur athletes who pursue their sport primarily for its own sake feel they have, or ought to have, the right to compete wherever they are physically qualified. Yet, as reported by athletes' groups and confirmed by the President's Commission on Olympic Sports (1975–1977), this freedom has been abridged by practically all major amateur sports organizations such as the NCAA (The National Collegiate Athletic Association) and AAU (Amateur Athletic Union). The President's Commission recommended statutory guarantees of the right to compete in international competition, but the campaign for such a law ran into the lobbying power of the NCAA. A compromise was effected, permitting the Amateur Sports Act of 1978 to pass, thus reorganizing much of American amateur sport. But athletes' rights do not yet enjoy the protection in law desired by most athletes.

Kenny Moore ran the marathon for the United States in the 1968 and 1972 Olympic Games. Moore received a Bachelors and Masters' Degrees from the University of Oregon and is currently a contributing editor of Sports Illustrated. He served as co-editor of the Final Report of the President's Commission on Olympic Sports in 1976 is a member of the Athletes Advisory Council of the United States Olympic Committee and of the Amateur Athletic Union (AAU) Track and Field Committee.

THROUGH the winter of my junior year at the University of Oregon, I worked weekends on the graveyard shift at a local plywood mill. Sometimes along toward dawn on Sundays, I got a little faint, as I usually had done my weekly 30-mile run the day before. The object of both these disciplines was the same—to earn my plane fare and develop my fitness for the 1965 Boston Marathon.

Though I was then a steeplechaser and three-miler in college meets, my coach, William J. Bowerman, who would later serve as the 1972 Olympic Head Coach for track and field, had perceived that my best distances were far longer, and together we had laid training and racing plans for the Boston race as a test of his judgment and of my athletic future. I remember the final weeks before the April event as ones of suppressed eagerness, of excitement building as my workouts improved to the point of seeming to make me a contender. Though I would wear an Oregon shirt, the university's crusty athletic director had said that I would have to pay my own way, there being no provision for marathons in the college budget. So I labored, feeding splintery veneer into a block-long dryer to earn my passage, and in the process earned the growing respect of my coach.

Thus, there was anguish in his voice when he told me, a week before the race, that it did not appear that I would be allowed to run. The athletic director, checking with the National Collegiate Athletic Association (NCAA) office in Kansas, had learned that the Boston Marathon, an Amateur Athletic Union (AAU) event, had not been approved or "sanctioned," in the jargon of these matters, for the entry of college athletes. No matter that the NCAA conducted no marathons of its own; if I chose to compete at Boston, The University of Oregon would be required by the NCAA to deny me at least a year's college eligibility. Bowerman raged on the phone to Kansas, but changed nothing.

I ran through Eugene's forested hills with bitter incomprehension, some of which remains with me now. Surely an athlete, an amateur athlete who by definition pursues his sport for the sake of simple excellence, who is unencumbered by professional contracts or owners, must have a right to compete in any event for which he or she is physically qualified. What possible reason could make it otherwise?

AN HISTORICAL DIVISION—AAU VS. NCAA

As it happened, in 1965 the NCAA had its reasons. To make them clear requires a long step back, to 1880 or thereabouts, the period when amateur sports organization began to be framed in America. In a manner almost unique among nations, sports took shape around education. As it did so, a division began to form, one that haunts sport politics to this day. On one side were the high schools and colleges which came to conduct by far the preponderance of athletic programs for the most athletes by the most coaches. On the other side were the administrative bodies, such as the AAU, which were recognized by the international governing bodies of each sport as the United States' representatives having the power to administer amateur regulations, to select national teams and to certify domestic competitions.

Recognition as a national governing body was not gained in a democratic fashion. The International Amateur Athletic Federation (IAAF),

for example, chose the AAU to represent it in track and field and maintained the AAU franchise without regard to whether the AAU had members of the school-sports community on its councils and so was, in fact, representative of United States sport. This designation was fiercely guarded by the AAU which, until 1972, was the national governing body for ten Olympic sports (now seven, after wrestling, basketball, and gymnastics were taken away by independent federations which enjoyed the support of schools). The natural concern of the high schools and colleges for the athletes developed in their programs ran head-on into the resistance of the AAU to granting membership to school groups commensurate with the scope of their programs.

The result has been the entrenchment of the two camps in positions of heartfelt animosity, which has broken out periodically in NCAA vs. AAU "wars" wherein one side or another tries to assume the jealously protected prerogatives of its opponent. It was this feud that President Kennedy directed General Douglas MacArthur to mediate in 1963 in order that the United States might produce a unified Olympic team. It was this feud that in 1968 Theodore Kheel called more intractable than any labor dispute. And it was this feud that in 1965 kept me out of the Boston Marathon. The NCAA had refused to grant a sanction to the Boston race, ostensibly because the AAU had not asked for one, while the AAU, citing its IAAF-given right to conduct competition for all Americans, maintained that further sanction by the NCAA was superfluous. But in reality, the NCAA move was to embarrass the AAU by forcing it to stage races and meets without college competitors, thus proving that the colleges were the real developers of United States track athletes.

For this prideful end, the means was to make pawns of the athletes. Years later, the athletes' case was well stated by the President's Commission on Olympic Sports (1975–1977): "The essential psychological ingredient in any world class athlete is the drive to excel in the toughest possible competition. To frustrate that urge is to make meaningless a competitor's sacrifice and dedication. That institutions charged with advancing athletes' careers should instead stymie them seems unconscionable. Yet recent history is filled with such events."[1]

The Commission Report went on to detail wrongs in several sports, concluding that:

> No single sports organization has a monopoly on either virtue or evil in the area of athletes' rights. . . . Typically, the AAU has denied, or threatened to deny, an athlete's rights to compete because he or she is affiliated with a rival organization . . . educational athletic associations use their rules to restrict athletes' international competition primarily as a weapon in disputes with other athletic organizations. . . . Competition denials by the various high school associations . . . appear to be based on the *in loco parentis* doctrine; that is, that the high school association is obligated—and entitled—to make decisions not only for the athlete, but for his parents and school as well.[2]

The Commission's research showed that an amateur athlete who has been denied the right to compete by any of these groups for any of these reasons has little chance of judicial

1. The Final Report of the President's Commission on Olympic Sports, 1975–1977, Gerald B. Zornow, Chairman, (Washington, DC: USGPO vol i, page 3).

2. Ibid., vol. 1, pp. 60–62.

rescue. No statute guarantees an amateur athlete the right to compete. In consequence, national governing bodies such as the AAU, because they are private associations, "generally have been immune from legal action."[3]

Since many colleges are state-supported, the courts have held that NCAA activity constitutes "state action" and is therefore subject to review under the equal protection clause of the Fourteenth Amendment. This also has been true of some state high school associations. But even when such a basis can be used for getting a case into court, in most cases, the NCAA need only show that the restrictive rule in question bears some "reasonable relationship" to legitimate association goals, not that it has been applied reasonably in the case at hand. For example, NCAA rule 3-0-(c) prohibits college basketball players from taking part in organized noncollegiate competition; actually it takes a resolution by the NCAA Council to permit players into the Olympics. The original reason for the rule was to protect players from gambling influences in summer leagues. In 1969, this rule was used to keep college players out of the Maccabiah Games, Israel's Jewish Olympics, not to combat gamblers but to "embarrass the AAU by forcing it to compete internationally without NCAA players."[4] Yale University, understanding this, permitted one of its players, Jack Langer, to take part, and subsequently refused to make him ineligible for varsity competition as ordered by the NCAA. In response, the NCAA Council put Yale on probation, keeping all Yale teams out of NCAA championships and off television for two years.

The President's Commission's findings led to its proposal of a two-pronged remedy. In an effort to remove the larger, historical reasons for the athletes being used as pawns, the report recommended recasting American sport into a "vertical structure" whereby the United States Olympic Committee (USOC) would act as a central coordinating authority with the power, through the instrument of the American Arbitration Association, to settle disputes within sports before the athletes' liberties were breached. Along this line, national governing bodies would be made to open their membership to school/college programs commensurate with the scope of development and competition they conducted.

The second, more explicit remedy would be legislation setting forth an athlete's right to participate in what the Commission called "unrestricted" competition, that is, international competition and such domestic competition which leads to international competition. The Commission also urged Congress to "examine the more restrictive high school association rules and regulations . . . with a view toward determining their necessity."[5]

The Commission Report was released in January, 1977. In August of that year, Senators Richard Stone of Florida, John C. Culver of Iowa, and Ted Stevens of Alaska, all of whom had been members of the President's Commission, introduced Senate Bill 2036 which, in essence, followed the Commission's recommendations. Hearings were held in October. The athletes' position in support of a strong guarantee of

3. Ibid., vol. 1, p. 62.
4. Ibid., vol. 1, p. 60
5. Ibid., vol. 1, p. 63.

athletes' rights was taken by the USOC, which had such a guarantee in its constitution for more than a year. Unfortunately, this could not be brought to bear on the NCAA. This college group, citing mismanagement, had withdrawn from membership in the USOC after the 1972 Olympics.

The Athletes Advisory Council (AAC) to the USOC, a rather activist group of current and recently retired athletes, sought to show the necessity of statutory guarantees and to counter NCAA and high school fears that freedom to compete outside school programs would bring irreparable disruption. "Football players, who bring in most college sports revenue, don't have any amateur opportunities outside college programs," said AAC president Ed Williams, an attorney and biathlete. "And basketball players are more interested in NCAA play than international teams because that is where the pro scouts are. The AAC can't get past Olympic basketball players to represent the sport because they don't care about the Olympics once they have played in them." Thus, these revenue producing sports would seem to be unaffected in the colleges by the guarantee of athletes' rights.

The NCAA case

For its part, the NCAA, represented at the hearings by its executive director, Mr. Walter Byers, took the position that it was already burdened beneath the weight of federal regulation, specifically "Title IX" regulations from the Department of Health, Education and Welfare requiring the upgrading of women's sports, and that no further legislation affecting educational programs in any way could meet with its support. The NCAA consistently refused to be drawn into debate on the merits of the athletes' rights question, with its counsel, Michael Scott, informing subsequent conferences that the NCAA was opposed to the bill, that he would not participate in discussions, and that his silence was not to be construed as support for any provision. However, coaxed by Senator Stevens, NCAA representatives agreed to provide legislative language more satisfactory than that in the draft bill. When Scott sent this information to Stevens, he wrote that no matter how much better it was, the NCAA would oppose even the language the NCAA had supplied.

Concern over the NCAA's support was well-placed. Few institutions have the built-in lobbying effectiveness of the NCAA. Most senators and congressmen are alumni of NCAA colleges. The blessings of university presidents and football coaches, perhaps for different reasons, are valuable during election campaigns. Thus, most legislators will listen attentively to their schools when Congress is in session. The high school associations, with thousands of coaches and administators capable of writing letters, are no less potent when aroused. And the issue of athletes' rights vs. the right of schools to run their sports programs as they see fit, like the issue of the Equal Rights Amendment, is one thick with emotion. "If those two groups gang up against this bill," said President's Commission Executive Director Michael Harrigan, "its chances are very, very slim."

The USOC effects a compromise

In early January 1978, Col F. Don. Miller, the USOC executive director, informed the AAC that he had learned from NCAA representatives that if the athletes' rights section

of the bill were dropped, the NCAA would not oppose the remaining legislation. That legislation empowered the USOC to be a coordinating authority, created criteria for the acceptable conduct of national governing bodies, and granted the USOC funds for development of minor sports and a sports medicine program.

The AAC proposed a compromise. In return for dropping the athletes' rights section of the bill, the Council asked the NCAA: (1) not to oppose the remaining sections, and (2) to rejoin the USOC and become subject to its athletes' rights requirements. The NCAA said "no" to the latter term and proposed that the USOC Constitution be amended to narrow the kinds of competition that would be protected, essentially to national teams representing the United States in international competition. After what appeared to be a great deal of soulsearching on both sides (or an equal amount of stonewalling or simply of confusion), the agreement was struck. Without NCAA opposition, the bill passed the Senate easily, but had a more difficult time in the House as the AAU belatedly sensed the implications for its umbrella union of the proposed requirement that each sport be governed autonomously. Questions of funding also slowed progress in the House. However, on 8 November 1978, after some quick parliamentary footwork by Senator Stevens succeeded in inserting $16,000,000 for the USOC into a separate omnibus funding bill, the Amateur Sports Act of 1978 was passed.

An assessment

What has been wrought, specifically in the area of athletes' rights, is hard to assess at the time of this writing. It appears that the NCAA showed itself to be the most experienced and toughest bargainer. There still is no specific definition of guaranteed athletes' rights in federal law. Title II, sec. 201b-(3) of the act, in requiring national governing bodies to accept the American Arbitration Association as arbitor of athletes' rights, simply describes those rights" . . . as provided for in the Corporation's (USOC) Constitution and by-laws." The new narrowness of those provisions, as noted, would probably permit the NCAA to invoke its rules against outside competition to keep present collegians from an open event like the Boston Marathon, which is international competition but not one in which national teams are entered. If the USOC did not permit such restrictions by the NCAA, the NCAA still would have the option of again dropping from USOC membership. Thus, while the system is functioning without incident at present, helped no doubt by the close public scrutiny this long debate has engendered, it is not cemented in statute.

The new law apparently has brought together the warring sections of United States amateur sport, and by doing so has ended at least one of their motives for bridging athletes' rights. But the larger question of whether this truce has been successful is difficult to answer, especially since these next two years will see many groups joining to challenge national governing bodies for their franchises in many sports. Athletes may well be caught up as pawns again in these struggles.

In the absence of specific guarantees of rights, it may be that the only development which could assure

them is the growth of attractive sports programs outside the schools. Models might be corporate-supported club systems like those found in European nations. That arrangement in effect would loosen the schools and colleges' monopoly of many aspects of American sport. If athletes came to have significant choices outside school sports, their freedom to depart would seem to bring them the freedom to take part in all competition without penalty. But such a wealth of opportunity is many years and millions of dollars away. Until then, American amateur athletes must train and plan with the knowledge that some bureaucrat has the power to turn them away from the starting line.

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Controversies in College Sports

By GEORGE H. HANFORD

ABSTRACT: While the Twentieth Century history of intercollegiate athletics has been marked by four periods of external scrutiny, the present scene is dominated by developments relating to the conduct of revenue producing sports, the equalization of athletic opportunities for women, the recruiting and subsidizing of athletes, and the financing of collegiate sports. Overemphasis on big-time football and basketball persists in clouding the relationship of sports to education. Ethical misconduct in the attraction and maintenance of big-time athletes continues to plague the college sports scene. The tightening financial squeeze on higher education, by keeping pressure on revenue producing sports, continues to nurture an unhealthy win-at-any-cost philosophy. And the movement to provide women with equal athletic opportunity as required by Title IX of the Higher Education Act of 1972 is adding to the problems of dollars and ethics—problems that will be solved only when the relationship of intercollegiate sports to the educational process is publicly examined, professionally clarified, and understandably declared.

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INTERCOLLEGIATE athletics have been a subject of controversy throughout the twentieth century. Today, for instance, sharp differences of opinion attend the conduct of big time sports, the conduct of big time sports, the equalization of athletic opportunity for women, the recruiting of athletes, and the financing of collegiate sports. Comprehension of these, today's controversies, requires an understanding of how things got that way.

Part of that understanding rests on the realizations that intercollegiate athletics come in two kinds, big time and small, and that most of the controversies, until recently at least, have swirled around the former. It was public concern over the mayhem of big time college football that prompted the intervention of President Theodore Roosevelt in the early years of the century. It was continuing concern over the growing professionalism of intercollegiate football that led to an investigation by the Carnegie Corporation in the late 1920s. It was in the aftermath of the much publicized basketball scandals that the American Council on Education took a brief look at college sports in the early 1950s. And it was a backlog of moral, educational, and financial considerations relating primarily to big time football and basketball that led to a recent inquiry by the American Council on Education into the problems of intercollegiate athletics and its subsequent convening of a Commission on Collegiate Athletics.

But if the big time sports of football, basketball, and more recently hockey have been at the heart of the controversies, the other sports including football and basketball played on less than a big time basis, have not been unaffected. They have been influenced by rules and regulations introduced to control excesses in the big time. Their fortunes have often reflected the fact that they have had, in many instances, to rely on net receipts from football and basketball for financial support. And their conduct, particularly off the field in relation to the recruiting, subsidy, and on-campus "care and feeding" of athletes, has been affected by the standard of athletic living set in the big time.

It is in relation to these off-the-field activities that the most significant current controversy affecting intercollegiate athletics has developed: should women in intercollegiate sports today accept or seek to change the standard of athletic living or sports conduct that has been set by the men over the years? But if the considerations surrounding the equalization of opportunity for women in sports have generated major public controversy involving college sports in the 1970s, other issues, many of them still very much alive, have dominated the past. They are issues on which the spotlight has been thrown in four external scrutinies of intercollegiate athletics.

FOUR BENCHMARKS OF EXTERNAL SCRUTINY

Following the intervention of President Theodore Roosevelt and the formation of the National Collegiate Athletic Association (NCAA) in 1906, the 20th century history of intercollegiate athletics has been punctuated by three inquiries of widely varying depth. The first and most comprehensive was undertaken under the auspices of the Carnegie Corporation and conducted by Howard Savage. His 1929 report of that study, *American College Ath-*

letics[1] provides a thorough and perceptive analysis of the growing professionalism and other conditions which prompted the instigation of the study and served as the vehicle for presenting several recommendations for change. The subject was revisited briefly in 1951–52 by a committee of college presidents sponsored by the American Council on Education (ACE) and chaired by John A. Hannah, president of Michigan State University.[2] The most recent investigation was initiated by ACE in 1973 through an initial probe reported in 1974 under the extended but descriptive title, *An Inquiry into the Need for and Feasibility of a National Study of Intercollegiate Athletics*.[3] This investigation continues to be pursued by an ACE Commmission on Collegiate Sports which was established in the spring of 1977.

President Roosevelt

Concerned generally about the win-at-any-cost philosophy that was increasingly infecting college football, both on and off the gridiron, and exercised particularly about the brutality that was more and more characterizing intercollegiate play, President Roosevelt told colleges at a conference which he convened late in 1905 to take remedial action or he would put an end to the whole enterprise. The conferees agreed "to carry out in letter and spirit . . . the rules relating to roughness, holding, and foul play" and, at a meeting in New York City on December 28, 1905, representatives from 62 colleges took steps to formalize their agreement through the creation of an Intercollegiate Athletic Association of the United States. Formally organized on March 31, 1906, this association of higher institutions, designed to codify, promulgate, and enforce rules and regulations which would ensure proper behavior on and off the field, became the National Collegiate Athletic Association in 1910.[4]

By reason of the fact that neither President Roosevelt nor any of his successors found it necessary to step in, it is reasonable to infer that the NCAA was successful in curbing the publicly visible mayhem and, for a time at least, in controlling off-the-field, behind-the-scenes unethical behavior. The record to date suggests that the NCAA and the other regulatory agencies concerned with college sports may have been successful in containing the kinds of on-the-field excesses which provoked President Roosevelt, particularly with respect to rules of play and physical safety. Although concerns about the physical safety of athletes have always been present and are evident today in controversies over such matters as artificial turf and plastic helmets, they were barely discernable among the issues which prompted the 1951–52 and 1973–74 probes. Also absent from those latter day issues were suggestions that there was something wrong with the rules under which athletic contests are actually played on the field. While

1. Howard J. Savage, et al, *American College Athletics*, Bulletin No. 23 (New York: The Carnegie Foundation for the Advancement of Teaching, 1929).

2. "Report of the Special Committee on Athletic Policy," *Educational Record*, vol. 33, April 1952 (Washington, DC: American Council on Education), pp. 246–255.

3. George H. Hanford. *An Inquiry into the Need for and Feasibility of a National Study of Intercollegiate Athletics* (Washington, DC: American Council on Education, 1974).

4. Guy M. Lewis, "Theodore Roosevelt's Role in the 1905 Football Controversy," *Research Quarterly* 40 (1969).

imaginative and innovative coaches have from time to time been able to devise ways to get around specific rules, the regulatory agencies have been able effectively to block the loopholes.

But if the NCAA and its counterparts have succeeded in regulating the on-the-field conduct of collegiate sports, the same cannot be said for their records with respect to off-the-field behavior; concern about the recruitment and on-campus treatment of athletes was an important motivation in the mounting of the investigations in the 1920s, 1950s, and 1970s.

The Carnegie Study

By the mid-1920s, the growing professionalism of intercollegiate football, as evidenced in the employment of professional coaches and in the special treatment of athletes both before and after admissions, prompted the Carnegie Corporation in the public interest to mount the study which led to Savage's 1929 report. That scholarly document, which reports the results of an in-depth, three-year investigation, traces the development of college sports from their infancy and describes the then current state of intercollegiate athletics. The conditions which defined that state were, to say the least, unhealthy. If the NCAA was being moderately successful in keeping on-the-field behavior under reasonable control, it was not adequately protecting intercollegiate football from what was perceived as the undesirable influence of professionalism. The thrust of the recommendations emerging from the Carnegie study was an appeal to college presidents and others in authority to turn the enterprise around and return it to a truly amateur status.

Savage's report was thorough and effective in its analysis of the situation and of how things got that way. However, it had little effect on the direction in which men and events were moving intercollegiate athletics. Indeed, the changes that resulted in the regulations for the recruiting and subsequent treatment of athletes served to codify rather than eliminate many of the practices perceived as unwholesome which had led to the study in the first place. Administrative control of the enterprise was not returned to the students as Savage's report had suggested and, increasingly, special departments were established to oversee the institutional conduct of athletics. Nor was the job of coaching restored to amateur status. Coaching became more and more a profession and less and less a labor of alumni love. In the early 1930s, Harvard hired Dick Harlow, its first gridiron mentor who was not a graduate of the college, signaling the end of an era in which coaches had almost always come from the ranks of the alumni.

The brief first look by ACE

Intercollegiate sports escaped further external scrutiny until the early 1950s when a small ACE committee of chief executive officers took a cursory look. Recognizing the validity of the general concerns about the growing and unhealthy overemphasis on big-time sports (basketball had by then joined football in that classification), and particularly concerned about the scandals that were at that time infecting big time basketball, the ACE decided that presidential attention was called for. The committee met a couple of times, surveyed the situation, and recommended among other things that

spring football practice and post-season bowl games be abolished. As was the case with the earlier Carnegie inquiry, little attention seems to have been paid to the recommendations, spring football continued, and the number of bowl games multiplied.

The continuing second look by ACE

For more than two decades college sports were left to evolve in their own way without additional interference. Not that external concern was not there; the files of the Carnagie Corporation, seen as a focus for expressions of discontent because of its previous foray into the field, suggest that more than a few individuals were dismayed on a number of counts. As a result of the build-up of suggestions made in the 1960s and early 1970s for another in-depth look at intercollegiate athletics, a number of tentative moves to mount such an effort were contemplated, until finally in 1973 a proposal from the ACE for the conduct of an inquiry into the need for and feasibility of national study of intercollegiate athletics was funded by the Carnegie Corporation, with subsequent help from the Ford Foundation.

That study resulted in an affirmative assessment on both counts. There was a need for an in-depth study and a feasible mechanism for undertaking one was proposed. As a consequence a Commission on Collegiate Athletics was appointed in 1977 by ACE under a grant from the Ford Foundation. The COCA was charged "with three responsibilities: to clarify the relationships between collegiate athletics and the educational missions of higher education institutions; to assess ways and means of meeting the financial predicament facing collegiate athletics programs; and to develop recommendations for coping with the ethical problems attributed to the athletics programs."[5] An orientation statement describing the commission's mission and hopes was published in March 1978.[6]

Two recent focussed inquiries

Like other parts of the educational enterprise, intercollegiate athletics have not been immune from federal scrutiny or intervention. The application of Title IX to college sports proved to be but one case in point as two other instances punctuated the decade of the 1970s.

Concern over the continuing struggle between the Amateur Athletic Union and the NCAA led to the appointment in the mid-1970s of a President's Commission on Olympic Sports. This move was but the latest in a series, "Federal authorities (had) intervened twice during the 1960s . . . The first time General MacArthur was the mediator. The second time, a panel headed by one of the most skilled arbitrators in the United States, Theodore Kheel, and backed by such luminaries as Archibald Cox of Watergate fame, spent a year hammering out a compromise between (the) competing athletic associations."[7]

More recently the NCAA has come under scrutiny by the House Subcommittee on Oversight and Investigation as the result of complaints about the NCAA's enforcement procedures. These recent inquiries,

5. *Annual Report*, 1977, American Council on Education, Washington, DC, 1978.

6. "The Commission on Collegiate Athletics," American Council on Education, Washington, DC, 1978.

7. Joseph Froomkin, "Sports and the Post-Secondary Sector," Appendix E to Hanford, "An Inquiry into the Need for a Study," p. 25.

while focussing only on limited aspects of the intercollegiate sports scene, have nonetheless served to keep the public spotlight on the off-the-field problems besetting collegiate athletics today.

FOUR LINES OF DEVELOPMENT

If the 20th century history of collegiate sports has been punctuated by four periods of external scrutiny, the pattern of its own evolution has been woven around four major lines or strands of development, each either in its own way or often interlaced with the threads of many other evolving conditions and set against a background of broader social circumstances. Those major strands involve: the economics of collegiate sports, unethical practices in the recruiting and on-campus care and feeding of athletes, the achievement of equality of opportunity for women in sports, and the relationship of sports, intercollegiate and otherwise, to higher education. Other knotted threads wind their separate ways through those four major strands. Too numerous to do separate justice to here, these other threads often interact with the major strands and with each other in ways that complicate any analysis of the history of intercollegiate athletics. Among them are such circumstances as the continuing concern over the physical safety of sports participants, the advent of television, the growth of professional sports, the student uprisings of the late 1960s and early 1970s, the exploitation of minority athletes, and the longstanding feud between the Amateur Athletic Union and the NCAA over control of Olympic sports (which has not been judiciously ameliorated if not irrevocably adjudicated by the recommendations of the President's Commission on Olympic Sports).[8]

The background of broader social circumstances against which the recent history of college sports has been unfolding is a mosaic of such factors as the civil rights movement, public disillusionment with education and its demands for fiscal accountability, and the growing litigiousness of our society which led to the intervention of courts and legislatures in the conduct of education and sports.

Recruiting and subsidizing athletes

The intent of the NCAA regulations for off-the-field conduct has always been to even out the competition among peers. Codifying and legitimizing the very practices Savage hoped to eliminate, they applied universally within the membership until the late 1930s when differences in levels of athletic aspiration and program strength were recognized and the fragmenting of the organization into divisions began. Today those differences are recognized not only in the maintenance of four divisions within the NCAA but in the existence of the National Association of Intercollegiate Athletics (NAIA), a membership organization like the NCAA focussing on the needs of some 500 or so small four-year colleges, and of the National Junior College Athletic Association, which in combination with the California Junior Athletic Association serves the majority of two-year colleges in their conduct of sports. Today there is a formal move afoot on the part of many of the big time football powers to create still another

8. *The Final Report of the President's Commission on Olympic Sports*, Washington, DC, 1977.

agency by taking themselves out of Division I of the NCAA through an entity already formed, the College Football Association.

In general it can be said that the higher powered the division the more regulations there are and that many of the regulations still affecting the less ambitious divisions are legacies from the simpler past when actions to control the big time were visited on the small. But important differences between the divisions do exist which did serve to rationalize the separation. Small colleges did not want to be regulated by policies made necessary by the excesses of large universities. And even more so, the big time powers did not want to have morality dictated to them by their more numerous small-fry brethren, especially when they, the powerhouses, supplied most of the money to the regulating body, the NCAA.

Against this background, just as coaches kept finding ways to get around the rules of play and the rule-makers kept plugging the loopholes, so the coaches and other athletic authorities kept finding ways to get around the off-the-field regulations as fast as NCAA's Committee on Infractions could plug the new loopholes. But there is a major difference in the two circumstances. Conduct on the field is there for all to see and for the officials to enforce. But conduct off the field is essentially covert, and identification of conduct perceived as being either inherently unethical or explicitly in violation of the code relies on complaints and informers. What has happened to the regulations over the years is that as unethical practices not in violation of the code were identified, regulations were written to outlaw them.

Although the size of the rule book that could be thrown at a violator has continued to grow, its increasing weight has not succeeded in deterring potential rule breakers. In 1974 the ACE inquiry team reported as follows: "External competition from professional sports, selective treatment by the media, pressure from alumni and the public have all combined to put big time collegiate athletic programs into competition with each other not only on the playing field but in the market for entertainers/performers/athletes. The need to win on the field has thus led to those ethical problems in the recruiting, financial subsidy, and on-campus care-and-feeding of college athletes which formed one of the basic sets of consideration leading to the call for this inquiry. In the course of the inquiry no one has been found who disputes the existence of such problems.

"To reduce what could easily become a polemic to a partial listing, violations which come to the attention of the inquiry team include, but are by no means confined to, the following:

altering high school academic transcripts

threatening to bomb the home of a high school principal who refused to alter transcripts

changing admissions test scores

having substitutes, including assistant coaches, take admissions tests

offering jobs to parents or other relatives of a prospect

promising one package of financial aid and delivering another

firing from a state job the father of a prospect who enrolled at other than that state's university

tipping or otherwise paying athletes who perform particularly well on a given occasion—and then on subsequent ones

providing a community college basketball star with a private apartment and a car

providing a quarterback with a new car every year, his favorite end with a tip, and the interior lineman with nothing

getting grades for athletes in courses they never attended

enrolling university big-time athletes in junior colleges out-of-season and getting them grades there for courses they never attended

using federal work study funds to pay athletes for questionable or nonexistent jobs

getting a portion of work study funds paid to athletes kicked back into the athletic department kitty

forcing injured players to "get back in the game."

"The existence of such violations is admitted by those involved in intercollegiate sports and documented in press reports and the files of the several national associations and athletic conferences."[9] There appeared to be no need to provide further documentation or to seek new evidence on this score.

The circumstances remain much the same today, with one important exception. The matter is now before the courts and under investigation by the Congress of the United States. In question are the right and the ability of higher education to self-regulate the conduct of intercollegiate sports. Such decisions as are made by the courts and such legislation as is enacted by the Congress are bound to restrict the ways in which the colleges and universities of the country will be able to put their own athletic house in order.

Financing college sports

Intercollegiate athletics are big business. Five years ago it was estimated that intercollegiate athletics consumed "about 1% of the ($30 billion) budget for higher education in the United States."[10] That came to $300 million or so, at a time when $3 million was a high sports budget. Today, with the budgets for athletic programs at some institutions approaching $5 million, the intercollegiate athletic enterprise could be approaching the half billion dollar mark.

If financial concerns about this growing enterprise have only recently blossomed publicly as the impulse that generated the 1973–74 inquiry, their roots go much deeper. Their seed was the central role played by football in the early years of the century and their evolution has been shaped by changes in the nature and influence of that role. The ability of intercollegiate football to generate income made it possible for colleges and universities to develop and underwrite institution-wise sports programs. Indeed in the early years some institutions were able to support physical education, intramural sports, and multiple-sport intercollegiate athletic programs because of a strong football program.

In the most general terms, what has happened is that for a variety of reasons these ancillary activities

9. Hanford, "An Inquiry into the Need for a Study," pp. 74–76.

10. Robert H. Atwell, "Financial Problems of Intercollegiate Athletics," Appendix B to Hanford, "An Inquiry into the Need for a Study," p. 1.

agency by taking themselves out of Division I of the NCAA through an entity already formed, the College Football Association.

In general it can be said that the higher powered the division the more regulations there are and that many of the regulations still affecting the less ambitious divisions are legacies from the simpler past when actions to control the big time were visited on the small. But important differences between the divisions do exist which did serve to rationalize the separation. Small colleges did not want to be regulated by policies made necessary by the excesses of large universities. And even more so, the big time powers did not want to have morality dictated to them by their more numerous small-fry brethren, especially when they, the powerhouses, supplied most of the money to the regulating body, the NCAA.

Against this background, just as coaches kept finding ways to get around the rules of play and the rule-makers kept plugging the loopholes, so the coaches and other athletic authorities kept finding ways to get around the off-the-field regulations as fast as NCAA's Committee on Infractions could plug the new loopholes. But there is a major difference in the two circumstances. Conduct on the field is there for all to see and for the officials to enforce. But conduct off the field is essentially covert, and identification of conduct perceived as being either inherently unethical or explicitly in violation of the code relies on complaints and informers. What has happened to the regulations over the years is that as unethical practices not in violation of the code were identified, regulations were written to outlaw them.

Although the size of the rule book that could be thrown at a violator has continued to grow, its increasing weight has not succeeded in deterring potential rule breakers. In 1974 the ACE inquiry team reported as follows: "External competition from professional sports, selective treatment by the media, pressure from alumni and the public have all combined to put big time collegiate athletic programs into competition with each other not only on the playing field but in the market for entertainers/performers/athletes. The need to win on the field has thus led to those ethical problems in the recruiting, financial subsidy, and on-campus care-and-feeding of college athletes which formed one of the basic sets of consideration leading to the call for this inquiry. In the course of the inquiry no one has been found who disputes the existence of such problems.

"To reduce what could easily become a polemic to a partial listing, violations which come to the attention of the inquiry team include, but are by no means confined to, the following:

altering high school academic transcripts

threatening to bomb the home of a high school principal who refused to alter transcripts

changing admissions test scores

having substitutes, including assistant coaches, take admissions tests

offering jobs to parents or other relatives of a prospect

promising one package of financial aid and delivering another

firing from a state job the father of a prospect who enrolled at other than that state's university

tipping or otherwise paying athletes who perform particularly well on a given occasion—and then on subsequent ones

providing a community college basketball star with a private apartment and a car

providing a quarterback with a new car every year, his favorite end with a tip, and the interior lineman with nothing

getting grades for athletes in courses they never attended

enrolling university big-time athletes in junior colleges out-of-season and getting them grades there for courses they never attended

using federal work study funds to pay athletes for questionable or nonexistent jobs

getting a portion of work study funds paid to athletes kicked back into the athletic department kitty

forcing injured players to "get back in the game."

"The existence of such violations is admitted by those involved in intercollegiate sports and documented in press reports and the files of the several national associations and athletic conferences."[9] There appeared to be no need to provide further documentation or to seek new evidence on this score.

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have been weaned from dollar reliance on football. Physical education early on came to be recognized as a legitimate part of the academic menu and was permitted to draw upon general funds like any other academic department. Similarly, but more gradually and certainly not uniformly, intramural sports came to be perceived as an extracurricular activity worthy of consideration as an appropriate adjunct to the learning and socializing processes in higher education and thus also worthy of support from general institutional funds as differentiated from their athletic coffers. Still later, in much the same way and for much the same reasons, many institutions began to move their entire intercollegiate athletic programs from a separate funding base to a general one.

Those movements did not affect all, and they were variable as far as individual institutions are concerned, so that patterns of support for college sports programs can today be classified in three categories: institutions which consider their athletic activities an integral part of their overall program and support them out of general funds; institutions which consider them extracurricular adjuncts also deserving of support from general funds; and institutions which treat major elements of their sports programs, always including the intercollegiate one, as auxiliary enterprises requiring financial self-sufficiency.

This third group is composed primarily of universities with big-time football and/or basketball programs where gate receipts therefrom are expected at the least to underwrite other intercollegiate sports, often to support intramural sports, and sometimes indirectly to absorb some of the costs of the physical education program by contributing, for instance, to the provision and maintenance of athletic facilities. It was in this category of institutions that the financial concerns which resulted in the 1973–74 inquiry blossomed and, at a meeting of the American Association of Universities (AAU) in the early 1970s, that the first formal latter-day call for an investigation of intercollegiate sports was made. (Sponsorship of the resultant inquiry and commission was ultimately assumed by ACE because of its broader representation of the nation's colleges and universities.)

There were many reasons why the issue surfaced when it did. Of most immediate moment perhaps were the then current economic circumstances. As reported in the 15 November 1976 issue of *Forbes*, "College football as such has long been a powerful moneymaker. . . However, the margins are dropping and while many of the most powerful teams playing in big stadiums are still making good money, there is less and less left over to cover the rest of the athletic department budget. Meanwhile, the cost of everything is rising. . . The problem on everyone's mind is financing the red ink in the rest of the athletic budget . . . it looks like tough times are ahead." Operating costs were escalating in a period characterized by the twin external influences of inflation and recession.

Internally, institutional authorities were wrestling with the question of whether revenue producing sports should be asked to underwrite still further the costs of the money losers. At most colleges and universities the process of weaning other parts of the sports program from dollar dependence on football and basketball had stabilized, so that tradition if nothing else was getting in the way of re-

ducing the call upon net receipts from the revenue producing big time sports.

In a much broader sense, however, the growth of professional sports and the advent of television began to take their toll. As athletic entertainment, professional football succeeded not only in creating its own unique following but in keeping fans away from the college game as well. The standard of performance in professional ball was obviously well above what most colleges could provide, with the result, as observed in the 1973–74 inquiry, that Los Angeles is the only major city in the country that currently sustains financially successfull "franchises" at both the college and professional levels. As big city audiences are exposed and then attracted to the professional calibre of play, it is the smaller cities like Lincoln and Birmingham and Columbus where big time college football thrives best.[11]

At the same time, the popularity of professional sports was enhanced, and the financial fortunes of intercollegiate athletics contradictorily affected, by the advent of television. On the positive side, income from television broadcast rights has pumped large amounts of money into the collegiate sports enterprise. At the same time, however, the public's expectations with respect to athletic performance have become more sophisticated and demanding as a result of television coverage not only of big time college sports but also, and most importantly, of professional sports. Previously the local sports event, high school or college, had been the only athletic entertainment in town. The coming of the age of television brought new and larger geographic focuses of athletic attention, often implicit but occasionally recognized in teams like the California Angels, the Minnesota Vikings, the Texas Rangers, and the New England Patriots. New loyalties, combined with the opportunities to view the professional brand of entertainment on the tube in lieu of the amateur live action on the field, have seriously cut into the local box office receipts.

But if television can be said to have been responsible for a more sophisticated level of consumer demand and to have contributed to the formation of new constituencies at the expense of some old ones, it has, as already noted, had an even more direct effect on the financial fortunes of intercollegiate sports. Newspaper coverage of college sports generally has been reduced as a result of the new emphasis on professional sports; and the space that is left for the college game is devoted almost exclusively to the big-time and the top twenty. The same holds true for radio and television's sports news coverage. For instance, station WCBS, CBS's all-news outlet in New York City, invariably focuses its Sunday morning college football coverage on Saturday's fortunes of the top twenty gridiron powers, reporting local scores as an afterthought if at all. This kind of emphasis keeps the spotlight on the teams whose winning records make them desirable targets for television exposure. Indeed, it is the income from television coverage, negotiated through the NCAA, that keeps some of the nation's most visible college athletic programs in the black.

What has happened is this. As the perennial winners and losers in big-time college football and basketball

11. Hanford, "An Inquiry into the Need for a Study," pp. 40–41.

began to sort themselves out, the income from television, despite attempts by the NCAA and some athletic conferences to spread the wealth around, came more and more to flow into a narrowing circle of institutions. The major athletic powerhouses of the nation strive mightily to keep themselves in the public spotlight and on the tube. In the process, those institutions with big-time aspirations but losing records began to find themselves in unfair competition with their more successful, television supported brethern, unable to generate the income necessary to purchase the coaching and playing services needed to compete successfully in the big time or to support the athletic facilities necessary to athletic self-support. Caught in the economic squeeze that was generally affecting all other institutions, these other less successful institutions were not able fully to benefit from the television revenues that began to be generated in the 1950s. This infusion of dollars into the intercollegiate athletic enterprise not only promoted the professionalization of big-time college sports but also diverted attention from the economic hard times which college sports were beginning to face in the early 1970s.

Equalizing athletic opportunity for women

The concerns which resulted in the 1973–74 inquiry had much to do with men's athletics and little to do with women's intercollegiate sports. While there obviously had to be some, problems in women's programs were certainly not of compelling concern to those calling for a look at intercollegiate athletics. Yet, within less than nine months, the results of the inquiry indicated that the problems relating to women's sports had become the most significant on the intercollegiate athletic scene. Their significance was two fold. First, there was the financial significance of the passage of Title IX of the Higher Education Act of 1972 with its requirement that women receive treatment equal to that of men in the higher education, including sports. Second, there was a moral significance implicit in the difference in approaches to the regulation of intercollegiate athletics for men, through the controlled professionalism of the NCAA, and the informal amateurism of the Association for Intercollegiate Athletics for Women (AIAW).

In financial terms, equal treatment of women in college sports was bound to cost somebody something. Either more dollars would have to be attracted from general funds or diverted from the men's programs, or the costs would somehow have to be passed on to the fan/consumer at the time when his/her entertainment appetite for live college sports was just about sated. Otherwise women would have to continue to be the victims of inequality. True, much progress has been made between 1973 and 1979. Reporting in the fall of 1978, the Project on the Status and Education of Women noted, "Since 1971, the number of colleges offering athletics to women rose from 280 to 825 and the number of teams rose from 1,831 to 4,797."[12]

Impressive as these figures are, they mask the moral and financial deficits that had to be made up. Most institutions are far from compliance. Despite the fact that many colleges

12. "Sports," Project on the Status and Education of Women, Association of American Colleges, no. 21, fall 1978, Washington, D.C., p. 7.

and universities have multiplied the amount of dollar support several times over in recent years, much more still needs to be done. Just how rapidly these deficits will be reduced depends, unfortunately, not so much on institutional recognition of the moral imperative involved but on the teeth that the Secretary of HEW puts into the regulations designed to eliminate sex discrimination in college sports programs. The more rapid the reduction of that moral deficit, the more acute the financial strain on institutional athletic dollars.

There is also a different kind of moral significance implicit in the difference between the approaches of men and women to intercollegiate sports in the pre-Title IX era. There was hope in many quarters that, in the convergence of practices that would be forced by Title IX, the men would see the error of their win-at-any-cost ways and move closer in the conduct of their sports to the spirit in which women approached intercollegiate athletics. Theirs was a spirit which espoused amateurism and concern for the well-being of the individual. It was a spirit explicit in both the principles and the name of the American Alliance for Health, Physical Education, and Recreation (AAHPER), within which AIAW existed as a subdivision of the parent organization's National Association for Girls and Women in Sport.

That those hopes were dashed in the event is not, in retrospect, surprising, given what happened to men's athletics after Savage's call for a return to amateurism in 1929. Reformers are often blind to the most obvious lessons of history. Women in sports are not, it would appear, more moral than men. Given the opportunity for equality and example, they have chosen equality of professional opportunity as player and coach. In doing so they have, instead of leading the men back to the spirit of amateurism, followed the men's example. There is irony in that fall 1978 periodical[13] of the Project on the Status and Education of Women when it notes, first, that: "According to an article in the July 10, 1978 issue of *U.S. News and World Report* in 1974 only 60 colleges offered athletic scholarships to women. Today, there are over 500" . . . and, second, that the Secretary of HEW, in announcing the establishment of "a special unit to develop policy on issues affecting athletics" in relation to Title IX, indicated that this "policy development workgroup . . . (would be) looking at problem areas such as athletic scholarships, player recruitment, athletic association rules, contact sports and coaches' pay." The first three of those five examples echo problems that have plagued the men, but not the women, for years. In planning its future, the AIAW chose not to stand firm on principle against the NCAA and chose instead to terminate its affiliation with AAHPER. In a few short years the athletic scholarship has replaced the bake sale as the symbol of intercollegiate athletics for women. As a result, the nonfinancial problems of women's sports are now becoming harder to distinguish from those of the men's.

Integrating sports and education

Implicit in all the controversies that have surrounded intercollegiate athletics is the basic issue of their relationship to the educational process itself. The financial treatments noted earlier suggest the possibilities of an auxiliary enterprise, an extracurricular activity, and a recognized

13. Ibid, p. 7.

department within the educational framework of an institution. In the last capacity, sports, whether intramural, club, or intercollegiate, compete on an even footing, as fully accepted partners, with the academic and other departments and constituencies of a college or university. In those circumstances, athletic administrators have to make their case for dollar support with their peers as well as to their higher authorities.

When defined as an auxillary enterprise, the athletic department is charged with the responsibility for fiscal self-sufficiency for an institution's intercollegiate sports program and often for its intramural one as well. Under this arrangement the athletic department operates as, and indeed is, a commercial enterprise substantively if not physically separate from the rest of the institution, like the food service or campus union building. In such instances the athletic activities are insulated from all but the spectator attention of the other constituencies within the institution. It even happens that some athletic departments in these circumstances report not to the president, directly or indirectly, but to a separate board of directors. This last arrangement is the ultimate result of the faculty's having absolved itself of responsibility for intercollegiate sports in the early years of the century.

Between these two straightforward extremes there is a wide variety of combinations and configurations which in one way or another and to varying degree reflect the adjunct perception of athletics implicit in the extracurricular model. This view suggests that college sports are neither an integral part of the educational process nor something quite separate from it. Instead, they are something of both. Like the debating society or the dramatic club or the college newspaper, they enjoy a quasi-educational status and have the potential at least of serving all students by directly involving a few.

It is this great variety in the nature and strength of the institutional linkages between college sports and education that provides a convenient smokescreen with which the regional accrediting agencies and college presidents can conveniently continue to mask their inattention to the problem of intercollegiate athletics. Despite all the brave words that attend any substantive public discussion of those problems by higher education authorities, there has been minimal follow-up activity at any level, except by a few presidents who get branded as "Robin Hoods" for their efforts. The overtures by the ACE Commission on Collegiate Athletics to the regional accrediting agencies suggesting that sports programs might more adequately be included in the institutional evaluation process have been met with polite indifference. And either college presidents have been less than aggressive in advising the philanthropic world of the serious nature of the problems involved or foundation officials, presumably tuned in to the developments in education, have themselves decided that sports are not important, because the grants in support of projects in the field have been not only few and far between but small.

As the 1970s come to a close, higher education needs to pay close attention rather than simply lip service to the problems of intercollegiate athletics and decide just what the role of sports in the higher education enterprise ought to be. Do they constitute integral, adjunct, or auxiliary parts of a college education? Until this question is squarely dealt with by the college and university com-

munity, the problems of intercollegiate athletics will remain essentially unsolved.

THE FUTURE

Forecasting is always dangerous. Reformers go at the task by conceptualizing the ideal future condition and interpolating to it from the present. The fate of the 1929 and 1952 recommendations suggest the applicability to this approach of the point made to the lost tourist by the Maine farmer: "You can't get there from here." The other way of casting ahead is through extrapolation, extending existing trends forward in time to weave a new pattern of future circumstance. The problem here is the unanticipated external influence that suddenly bursts upon the scene. Who, for instance, in forecasting the future of intercollegiate athletics in 1970, was prescient enough to anticipate the effects of Title IX? Relying more on the lesser uncertainty of short-term realism than on the idealism of long-term reform, the future here briefly foreseen is loosely framed around extensions of the four major strands of development relating to women, ethics, economics, and education that dominate the current intercollegiate athletic scene.

For reasons of morality and of law, women will continue to approach parity with men in college sports. The combined effects of the movement toward equality in sports for women, declining student enrollments, and tax reduction legislation are bound to keep the economic squeeze on all facets of higher education, which will in turn put even greater premium on television dollars in support of sports and so exacerbate the ethical problems involved in the recruitment and subsidizing of television-revenue-producing athletes. Thus, if the future is to be woven around the strands involving women, economics, and ethics, it could be predicted that the athletic lot of women will improve but that the financial and ethical problems will get worse, affecting both men and women.

The hope for the future lies in the educational line of development, for it is the only one of the four areas over which educators have some control. If intercollegiate athletics are perceived as an adjunct of the educational process or something separate from it, financial support for all but the television-supported big-time will be harder to come by as the superfluities of education are set aside. But if the case for college sports as an integral part of a college's or a university's mainstream offerings can be made, then support will be forthcoming. The trick will be to isolate big-time football from the rest of the intercollegiate athletic enterprise.

The case for such a move is a long and complicated one but major considerations involve the following: Football is not an Olympic sport. Nor is it recognized as a women's sport and won't be, for a long while at least. And it is at root responsible for the standard of athletic living that has fostered unethical recruiting and subsidy practices. Big-time football, conducted apart from the rest of the intercollegiate sports program, would give the rest the chance to make it as a recognized, integral part of higher education.

But whether this route or some other is ultimately chosen, the problems of intercollegiate athletics will be solved only when its relationship to the education process is finally defined and publicly understood.

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Women in Sport: The Synthesis Begins

By JUDITH R. HOLLAND AND CAROLE OGLESBY

ABSTRACT: Sports have emerged as a primary area of controversy about men's and women's roles. The authors argue that women's sport has changed dramatically in recent years while men's sport has changed little. An additional level of change in sport, synthesizing elements of the traditional men's and women's sport experience, would be socially beneficial. Essential elements of play, game, sport, and athletics, are identified as defined in the emerging sport sciences. Selective socialization of males and females via sport was accomplished through the shaping of "masculine" and "feminine" sport experiences. The effect of the women's movement has been to adopt traditional sport as instrumentality, rather than masculinity, training. This requires little restructuring of sport by men. A new conception of sport is presented in which the elements of traditional men's and women's sport are theoretically synthesized. Because of the past emphasis on the masculine-instrumental elements of sport, it is hypothesized that a temporal focus on the feminine-expressive elements is necessary to the occurrence of a synthesis. The paper concludes with a full description of the Association for Intercollegiate Athletics for Women (AIAW), which aids in the accomplishment of the synthesis. The history, present issues, and future trends of the AIAW are discussed.

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Carole Oglesby is an associate professor at Temple University and head of the newly formed Psycho-social Interactions and Movement Laboratory in the Physical Education Department. She was president of the Association for Intercollegiate Athletics for Women during its inaugural year and was president of the National Association for Girls and Women in Sports in 1976–1979. She was sport consultant for the International Women's Year Commission.

VARIOUS authors have vividly described the exponential acceleration of change in our society. It is doubtful if any social context is more agonized and polarized over this radical transformation than that of sport and men's and women's roles within it. The behavior of public officials illustrates the shift. In 1971, a Connecticut judge decided against a girl who was suing for the right to participate on an all-boy school team. The judge asserted, "sports builds character . . . we don't need that kind of character in girls."[1] In 1978, the Secretary of the Department of Health Education, and Welfare firmly stated the complete opposite view in announcing proposed Title IX regulations.[2]

Change can also be measured by statistics: 1) the increase in sport participation of high school girls from 7 percent of all high school athletes in 1970–71 (pre-Title IX) to 28 percent in 1976–77;[3] 2) the increase in colleges offering athletic scholarships for women rose from 60 in 1974 to 500 in 1978.[4]

It would be naive to believe that these qualitative and quantitative changes could take place through evolutionary drift. Heide claims that feminism is the catalyst for change in stating it seeks ". . . to redefine and reassign power in sport, in every other dimension of our lives and the public world . . . it is a revolution of values, institutions, individuals."[5] The sport context has become a primary jousting ground for what Heide calls the "(so far) bloodless revolution."[6] When a few parents wanted their girls to be able to play Little League, swim on the boys team (usually the only team), or when Title IX was interpreted to include equal opportunity for women in sport, the flap and furor created was amazing. This apparently aberrant fear and fury could only be understood when viewed against the context of what sport had become: the manhood maker.

Some seem to believe that sport and the military are the last strongholds of the dichotomous traditional sex role definitions of masculine and feminine.[7] Thus sport becomes a treasured bastion to some and the essence of the enemy to others. It seems a very good time to look again at basic premises concerning what sport must be and can be. Following is a brief review of: 1) the essential nature of play, game, sport, and athletics; 2) the social-historical factors leading to the development of a "feminine" and "masculine" sport with the "feminine aspect" as sports' hidden dimension; 3) a theoretical future for sport as a constructive cultural product; and a pragmatic discussion of the institutionalized aspect of women and sport including issues in governance of sport today.

1. *Hollander* v. *Connecticut Interstate Athletic Conference*, (Super. Ct. of New Haven CO. CT, 29 March 1971).

2. Joseph A. Califano, "Title IX Statement," *HEW News*, U.S. Department of Health, Education, Welfare, (6 Dec. 1978), p. 11.

3. Wayne Grett, "More Sports", *Des Moines Tribune*, Des Moines, Iowa, (5 April 1978), p. 34.

4. Mariann Pogge, "From cheerleader to competitor", *Update*, American Bar Association, (Fall 1978), p. 18.

5. Wilma Heide, "Feminism for a sporting future," *Women and Sport: From Myth to Reality*, Ed. Carole A. Oglesby (Philadelphia: Lea & Febiger, 1978), p. 196.

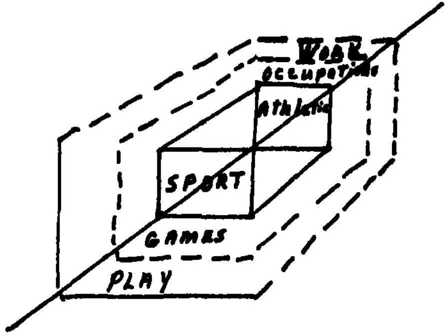
6. Heide, p. 195.

7. John Schimel, "The Sporting and Gaming Aspects of Love and War," *Contemporary Issues in Psychology of Sport* (Chicago: Athletic Institute, 1940).

FIGURE 1

SPORT ON A WORK-PLAY CONTINUUM

Instrumental, utilitarian



Expressive, non-utilitarian

THE NATURE OF PLAY, GAME, SPORT, AND ATHLETICS

In a recent publication, Loy, McPherson and Kenyon have summarized a great deal of material concerned with construct formation in sport studies.[8] The authors identify sport as a subset of games and games as a subset of play. Further, they suggest athletics be viewed as a subset of occupations and occupations as a subset of work. If the two configurations work and play are juxtaposed (see fig. 1), the relationships of the terms play, game, sport, athletics are clarified.

"We acknowledge that modern sport may be best conceived as being located on a continuum between play and work . . . (where) some degree of play permeates work and some elements of work are found in many forms of play."[9]

Synthesizing the work of Huizinga and Callois, Loy et al. characterize play as "any activity that is voluntary, separate in time and space, uncertain in outcome, spontaneous, unproductive of material gain and governed by rules and make-believe."[10]

Callois defined games as aspects of play differing on the basis of which of the four elements was dominant:

a) competition Paida Ludus	b) chance Paida Ludus
c) mimicry Paida Ludus	d) vertigo Paida Ludus

Webb built on Callois' work in suggesting that each of the four game categories incorporates yet another continuum of activities along the dimension of extreme spontaneity—informality (*paida*) to high rigor and formality (*ludus*). Webb described for example, how the child's game of "Scissors, Rock, Paper" would be classified as a paidic chance game while Las Vegas crap tables would be classified as ludic chance games.[11]

Loy defined sport as institutionalized games demanding physical

8. John Loy, Barry McPherson, and Gerald Kenyon, *Sport and Social Systems*, (Reading, MA. Addison-Wesley, 1978).

9. Loy, p. 23.

10. Loy, p. 21.

11. Harry Webb, "Sport as a Form of Play," invited paper, Sport Sociology Symposium, American Alliance for Health, Physical Education and Recreation, National Convention Milwaukee, WI, April 1976.

prowess. He also indicated that the term sport may be utilized to denote a social institution aspect.[12] A critical distinction between sport and athletics has been explicated by Keating.

> In essence, sport is a kind of diversion which has for its direct and immediate end, fun, pleasure and delight and which is dominated by a spirit of moderation and generosity. Athletics, on the other hand, is essentially a competitive activity which has for its end, victory in the contest and which is characterized by a spirit of dedication, sacrifice and intensity.[13]

In these paragraphs an immense spectrum of human activity has been demarcated into rough categories. It seems clear that the classification of a given experience as one of play, game, sport, or athletics is dependent upon personal disposition and intention as well as situational determinants. Social-historical factors have influenced men and women to experience sport in a highly differentiated fashion. Personal dispositions and intentions of women and men have undergone a selective socialization via sport. This socialization has, in turn, reinforced male/female differences in values and behavior of both sport participants and leaders functioning in sex-segregated sport organizations.

Selective socialization via sport

While the definitions cited were designed to create theoretically exclusive categories, in the "real world," we concur with others that athletic activity may vary as to the degree of playful spirit within it just as sport activity may be experienced with high ludic (formal) components. The individual(s) involved has considerable latitude with regard to the play/sport situation mutually created.

Another dimension along which the sport setting varies is the dominant value orientation. Denny has identified three important orientations in U.S. sport: a) education, b) traditional amateur, c) business.[14] In brief, the educational orientation has its primary focus on the development of the participant and seeks to maximize the numbers of participants so that all may gain the potential benefits of the sport experience. The business orientation has maximization of profit as the primary focus. Thus, minimal numbers of participants who require funding output for uniforms, training, salaries, and the like are recruited. Fans, who will "consume" the sport experience, are highly recruited. The traditional amateur orientation emphasizes sport for its intrinsic outcomes, excellence in performance and sportsmanlike behavior.

The essential characteristics which define play, game, sport, and athletics, and the value orientations which have surrounded U.S. sport, provide the building blocks with which individuals structure their own activity. Stereotypic sexuality concepts have in the past led to the creation of fundamentally differing sport experiences for males and females. The present social conditions reinforce sport as a training in instrumentality for females and males alike.

MASCULINE/COUNTER-FEMININE AND FEMININE-COUNTER-MASCULINE SPORT

Sexuality concepts in this country have been structured by perception

12. Loy, p. 21.
13. J. Keating, "Sportsmanship as a moral category", *Ethics* 75 (October 1964): 28.
14. R. Denny, "The Spectatorial Forms," *Sport, Culture and Society*, ed. G. Kenyon and J. Loy (New York: Macmillan, 1969).

of dichotomous characteristics; polar opposites wherein one extreme is appropriate to masculinity and the other appropriate to femininity. Ortner provides a succinct picture of traditional, stereotypic masculinity/femininity.[15]

Another aspect of stereotypic masculinity-femininity which must be recognized is that adequately meeting the demands of one's sex role requires more than affirmatively "living out" these polar expectancies. The individual must avoid expression of characteristics appropriate to the other sex. (Hence, the unfortunate terminology, the "opposite sex.") Heide explicates the paradox.

> If the so-called *feminine* social traits were *natural* for all females and females only, and the so-called *masculine* social traits were *natural* for all males and only males, then why are girls trained for "femininity" only and boys for "masculinity" only so assiduously from the moment of birth? The very existence of such demonstrates its unnaturalness . . . normal means average or typical while natural means in the intrinsic nature of the organism . . . normal and natural are not synonymous.[16]

Duquin,[17] Fisher,[18] and Felshin[19] have noted that the tradition and history of American sport clearly defines it as a training in masculinity: that is, active, aggressive, and public. Johnson suggests the counter-feminine tone prevalent in the traditional sport context.[20] Sport is viewed as a way of being not-a-sissy, not-a-woman.

Even given this tradition, though not publically recognized, there has been extensive female participation in sporting activities since the turn of the century.[21] A look at Figure 2 gives some clues about the feminine (and thus counter-masculine) sport experience which was created. This "feminine" sport experience was private, rather than public, natural rather than rule-bound, unregimented, expressive rather than instrumental, cooperative, and inclusive rather than elitist. The experience was most directly created by women physical educators, hand in hand with the medical men who were the primary influence in developing physical education profession, 1910–1930.

Stereotypic sexuality concepts contributed to a man's sport framework which was more professionalized and athletic (instrumental) than the women's model; men's sport was more likely to be ludic, formal, rigorous in character, and dominated by either business or traditional amateur value systems. The women's sport model was more likely to be paidic, expressive, educational in orientation. The presence of a "feminine sport," specifically organized to be appropriate for females, is well described

15. S. Ortner, "Is Female to Male as Nature is to Culture," *Woman, Culture and Society*, ed. M. Rosaldo and L. Lamphere (Stanford, CA: Stanford University Press, 1974), p. 69.

16. Heide, p. 196.

17. Mary Duquin, "The Androgynous Advantage," *Women and Sport: From Myth to Reality*, ed. Carole A. Oglesby (Philadelphia: Lea & Febiger, 1978), p. 89–106.

18. A. Fisher, "Sport as an Agent of Masculine Orientation," *The Physical Educator* 29 (1972): 120.

19. Jan Felshin, "Sport, Style, and Social Mode," *Journal of Physical Education and Recreation* 46 (1975):31.

20. Kathryn Johnson, "Development of Human Values Through Sport: a Sociological Perspective," *Proceedings of the National Conference* (Washington DC: American Association of Health, Physical Education and Recreation, 1974).

21. E. Gerber, J. Felshin, P. Berlin, and W. Wyrick, *The American Women in Sport* (Reading, MA: Addison-Wesley Publishing, 1974).

by Felshin in her formulation of the apologetic for women in sport.[22] In the apologetic, verbalizations by the female participant and descriptions promulgated by women sport leaders proclaimed that sportswomen were feminine even though they participated in sport.

FIGURE 2

STEREOTYPIC SEXUALITY CONCEPTS

MASCULINE-LIFE RISKER	FEMININE-LIFE GIVER
active	passive
aggressive	submissive
public	private
cultural	natural
rule-governed	idiosyncratic
instrumental	expressive
goal-oriented	chaotic
organized	disorganized
dominating	subordinate
competitive	cooperative
controlled	uncontrolled

Sport as an Instrumental activity for both sexes

With the rise of the women's movement in the late 1960s, a change of consciousness regarding stereotypic sexuality began to surface.[23] Feminist writers have consistently proposed that women's liberation from the exclusively feminine-expressive principle must be linked to men's liberation from the exclusively masculine-instrumental principle but there is much to indicate this twin liberation is not occurring. Duquin states, ". . . males are still expected to be solely instrumental, while females are expected to be both instrumental and expressive. The perception that instrumentality is important for both sexes has the effect of elevating the status of instrumental traits and behaviors over expressive traits and behaviors."[24]

Construing sport as an agent of instrumentality rather than masculinity requires little reconstruction of sport for males. Great differences emerge when traditional "feminine" sport is converted to instrumentally oriented sport. Duquin again provides an apt description. She states the instrumental view of sport holds that

> . . . if participation in sport is going to build leaders, build stamina, heighten competitive spirit, produce physical fitness, create mental toughness and put students through college, then girls as well as boys should have equal opportunity to participate in sport and gain such benefits.[25]

The shift from viewing sport as training for masculinity to viewing it as training for an instrumental orientation has certain benefits for women. Gaining full membership in traditional sport opens to women a very large slice of American life: socially important status as school athlete; financial aid to attend college; a possible career as athlete, coach, administrator, trainer, official, or public information officer. One may travel regionally, nationally, and internationally for competitions. One becomes a member of the "team" (whatever the corporate team may be) in a wholly new sense.

Several factors make this shift to sport as training in instrumentality an unsatisfactory goal from a feminist-humanist perspective. Sport is allowed to remain predominantly an exclusionary activity with attention focused on the talented elite. Equally important, the traditional low esteem

22. Jan Felshin, "Triple Option for Women in Sport," *Quest* 21 (NAPECW and NCPEAM, January 1974).
23. Theodore Roszak, and Betty Roszak, *Masculine/Feminine* (New York: Harper Colophon Books, 1969).
24. Duquin, p. 97–98.
25. Duquin, p. 97.

for females is replaced by low esteem for, and continued nonrecognition of, the expressive elements of sport. We believe that a claiming and valuing of the expressive in sport is absolutely necessary if sport is to be salvaged as a developmental cultural product. This section concludes with some speculations concerning an alternative orientation to sport. One is based upon a recognition of the full complement of human qualities potentially reinforced within the sport experience.

*Sport as gynandry*training*

Popular culture to the contrary, there have been several prominent psychologists and sociologists who have recognized and affirmed the benefit of elements of cross-sex typing within human personality.[26] Most recently the work of Sandra Bem has demonstrated the efficacy of human personalities which include both instrumental and expressive, both assertive and yielding, both traditional masculine and feminine capabilities.[27] Oglesby has argued elsewhere that sport is inherently ambiguous with regard to sexuality training but that it may be construed to provide an arena for the display and experiencing of both expressive and instrumental qualities.[28]

Certainly, upon reflection, we see that the sport experience has its strong moments of emotional irrationality, dependency, privateness, chaos, and aesthetic beauty. Why have we been so unaware of the potential of sport for the development of so-called feminine elements? A simple explanation would be that almost all males participate or are interested in sport and the dichotomies of stereotypic sexuality crippled our ability to perceive the role of the development of so-called feminine qualities in men and boys as we have previously failed to perceive the benefits of so-called masculine qualities in women and girls.

Four descriptive statements may give at least a glimpse of the synthesis of expressive and instrumental values possible in this orientation. In gynandrous sport: the participant is aware of choosing vulnerability out of hard-earned strength; the participant innovates techniques and styles from a storehouse of knowledge and skillfulness in sport; the participant senses a competitor as a co-creator of the challenge and opportunity of the game; the participant persists in the sport journey towards the ultimate experience of freedom and ecstacy through processes of mastery, control and intense concentration.

A logical extension of Bem's work, comingled with feminist philosophy as espoused by Rich[29] and Daly,[30]

* Bem and others have utilized the term androgynous to denote a synthesis of feminine/masculine, instrumental and expressive. Following Heide and Daly we reverse the position of the two roots of the word to symbolize that any "coming to balance" requires a temporary primacy of the feminine.

26. Talcott Parson and Robert F. Bales, *Family, Socialization and Interaction Process* (Glencoe, IL: Free Press, 1955); Nevitt Sanford, *Self and Society* (New York: Atherton Press, 1966); Frank, Beach, *Sex and Behavior* (New York. John Wiley, 1965).

27. S. L. Bem, "Sex Role Adaptability: One Consequence of Psychological Androgyny," *Journal of Personality and Social Psychology* 31 (1975), p. 634.

28. Carole A. Oglesby, "Jocks and Jockarinas: Will You Really Need a Program to Tell the Difference?," invited paper for panel on sex roles and sport education, American Psychological Association Symposium (Washington DC: 4 Sept 1976).

29. Adrienne Rich, *Of Woman Born* (New York: W. W. Norton, 1976).

30. Mary Daly, *Beyond God the Father* (Boston: Beacon Press, 1973).

suggests that society would benefit from extensive adoption of a gynandrous orientation by males and females. Thus it appears reasonable to propose that one remedy for our social problem would be the elevation to positions of influence of those individuals who reflect a strong orientation toward expressive and instrumental capabilities. In the area of sport, Duquin's research indicates that such an orientation is often held by female athletes and female coaches/physical educators.[31]

Do these valuable resources, these female coaches, teachers and administrators hold influential positions within the sport context? On the contrary, their exclusion from positions of power and influence has been nearly complete. An emerging phenomenon is showing some potential for change: the strong, separate woman's sport organization is proving effective as an affirmative action unit. Because of its unique and singular focus, the women's sport organization serves many functions which shatter prejudices underlying longstanding discriminatory practices.

INSTITUTIONALIZED ASPECTS OF WOMEN IN SPORT: ISSUES AND TRENDS IN GOVERNANCE

The 1970s heralded new frontiers in women's sports. One phase of this activity was women's collegiate athletics. Increased attention brought additional resources and efforts to substantially upgrade existing programs as well as the creation of activities where none existed previously. The focus on women's rights, together with the impact of Title IX of the Higher Education Act of 1972 and various state laws with respect to women's athletics, were largely responsible for this upsurge in interest.

Events of the late 1960s and early 1970s brought into focus the areas of needed emphasis. Developmental activities for girls in their formative years were sorely lacking. Also the lack of a strong, national governing body for women's collegiate athletics severely limited further development of women's athletics.

Historical development

The Association for Intercollegiate Athletics for Women (AIAW) is the major governing body for collegiate athletics for women. It was established in 1971 as a substructure of a professional association, the American Alliance for Health, Physical Education and Recreation (AAHPER).[32] Originally the AIAW governed athletic programs of both four-year and two-year institutions and included colleges and universities of all sizes.

A constitution and bylaws were the first documents adopted by the AIAW membership and served to state their philosophy of the educational basis for intercollegiate athletic programs. Rules and regulations governing grant-in-aid, recruitment, and eligibility were a necessary adjunct to this new organization. They were promulgated separately, apart from established regulations of the existing men's governing organizations including the National Collegiate Athletic Association (NCAA), National Association for Intercollegiate Athletics (NAIA), and the National Junior College Athletic Association (NJCAA). This

31. Duquin, p.

32. Judith R. Holland, *AIAW Handbook of Policies and Operating Procedures*, 1975–1976 (Washington, DC: AAHPER Publications, 1976), p. J.

point is important as it established a precedent for creating new rules to govern women's athletics and modify existing regulations. Title IX or its equivalent in state laws notwithstanding, women's athletics chose to blaze their own independent path in establishing their own governing organization.

National championships were part of the original program of the AIAW and have increased until in 1978–79 the AIAW sponsored 18 national championships in 13 different sports for large and small colleges. The program for the junior/community colleges was ended in 1977–78 primarily due to the initiation of women's championships by the NJCAA.

This brief chronicle of the development of the AIAW would not be complete without mention of the regional and state organizations which served a twofold purpose: qualifying structures for national championships, and governance of the appropriate state or region. Many of these organizations predated the AIAW, some having been in existence for many years.

Issues in governance structures

Leadership. A formidable hindrance to the development of well-organized structures to support the furtherance of women's athletics has been the limited numbers of well-trained and highly committed leaders. The blame for this apparent lack should be placed on the system that so completely excluded women from its structure. In their final report the President's Commission on Olympic Sports stated:

> The foremost issue is that women lack significant organizational influence. They play virtually no role in the structures which formulate athletic policy and implement programs. Only a handful of women have ever been officers of any national governing bodies, of the AAU, or of groups at the high school and collegiate levels. Where women are involved as coaches or administrators, their numbers are small and the authority and responsibility granted them is often significantly less than that accorded men. Consistent efforts are not made to provide the incentives and training needed to move women into positions of athletic administrative power at schools and universities.[33]

This indictment of the general condition for women desiring careers in athletics at any level is unfortunately true. While improvements are noted in several areas, specifically collegiate sports, much progress remains if women are to provide the leadership and control for their programs.

Financing the Programs. Until five years ago funds to support women's collegiate athletics have been almost nonexistent or woefully inadequate. With the advent of Title IX conditions have improved immeasurably. Funds have been made available to provide scholarships for women athletes, quality equipment and gear, competent coaches, and adequate travel. Though not exorbitant by any means, financing for women's athletic programs has improved and undoubtedly will continue to improve during the next few years.

However, realistic economic predictions indicate that institutional funds do not exist to support women's athletics at the same level as men's athletics. It is well documented that some men's athletics programs generate a fair percentage of the money needed to support their program efforts. In some cases

33. *The Final Report of the President's Commission on Olympic Sports*, (Washington, DC: [USGPO] 1977), pp. 109–110.

self-generated funds support the entire program. The main sources of this income are gate receipts, television/radio contracts, program contributions, and miscellaneous items such as concessions. Women's athletic programs must begin to develop revenue producing items of their own to supplement institutional funds. Through these means programs for women athletes will continue the growth rate of the 1970s.

Separate But Equal. Since the promulgation of the Title IX Guidelines in 1975, and with the issuance of the Policy Interpretation by HEW, much dissension exists in the athletic community as to the proper administrative place for women's athletics. Some individuals believe that under Title IX Guidelines women's athletics must necessarily be under the same regulations and institutional policy as the men's program. Therefore, a single athletic department and a single national governing organization are mandated if a college is to comply with Title IX. Others contend that such items are not mandated under Title IX and that women's athletics must have the freedom to develop in its own way. And so the debate continues. In discussing this issue the Department of Health, Education and Welfare stated:

> Although identical recruitment methods or techniques are not required, the level of effort and method used to recruit must be based on non-discriminatory criteria.
>
> Differences in per capita expenditures that result in discrimination cannot be excused by different rules of men's and women's athletic associations.[34]

34. Department of Health, Education and Welfare, "A Proposed Policy Interpretation," *Title IX of the Education Amendments of 1972*. Washington, DC, p. 24–25.

While no definitive answer has emerged at this point, it is clear that further discussions will continue in this matter. HEW has recognized separate men's and women's athletic associations and has not regulated against such separation. The future for women's athletics certainly seems bright. Further growth and development should occur throughout the entire program both on individual college campuses and at the organizational level; that is, regional and national. Several trends appear to be in the offing which will have an influence on women's athletics; namely, emergence of conference structures, development of professional sports, upgrading of high school sports for girls and more cooperation with men's governing bodies.

Conference Structures. Men's athletics have long been organized into conferences. These local governing units tend to produce strong, cohesive units which lend considerable strength to the totality of men's athletics. On the other hand, women's athletics have not been organized, generally speaking, into these strong local units.

Present developments lend strong credence to support for the emergence of women's conferences with some of these taking on traditional men's conferences lines. For instance, considerable support has been stated for the formation of a Big Eight Conference for women, a South Eastern Conference and a Big Ten Conference. Conference linkages such as mentioned here, may interfere rather markedly with the regional structure of the AIAW.

Professional Sport. Golf and tennis, for some years have been a lure for the woman athlete. Although not as rewarding, professional softball did offer an opportunity to compete for money. Basketball finally

emerged on the professional sports scene. It is questionable, in the economic conditions of this period, whether these ventures will succeed. However, they do offer an outlet for the woman athlete past her collegiate career and do serve to stimulate the collegiate programs.

High School Sports. As professional sports serve as a stimulus at one end of the continuum, the same is true of high school sports at the other end. Upgrading and development of these programs produces the quality athlete so necessary to the collegiate programs. When an abundance of excellent high school female athletes are pounding at the collegiate doors, the only response worthy of these institutions is a program to match their skill and interest.

Cooperation with Men's Groups. In this age of negotiation the only acceptable solution to the existing condition between and among the AIAW, NCAA, NAIA, NJCAA, USOC, and the AAU is peaceful cooperation for the ultimate objective of more and better opportunities for all athletes, at any level and of either sex.

CONCLUSION

Women who participate in athletics are beginning to receive a bigger share of the resources available for such programs. However, more progress remains to be achieved if the women are to receive a fair and equitable slice of the pie. As Joseph Califano so aptly stated:

> Anyone who doubts the importance of equal athletic opportunity for women had only remember those things that we have all heard throughout our lives about participation in sports: that athletics teach both teamwork and leadership; that athletics create pride in accomplishment; that athletics teach sportsmanship—how to win and how to lose; that competitive sports build character. Does anyone think for a moment that those benefits apply only to men? Most certainly not. But women must work even harder to provide the leadership so important to the objectives at hand.[35]

In the past, the socially important role for women in sport was that of spectator and supporter. The personal and private sport which some women did experience differed in fundamental ways from traditional men's sport. Section one and two of this paper described those fundamental differences. As we attempt to blend the two orientations toward sport, a temporary period of focus on women-as-participant (at all levels including administrative, coaching, as well as participant) seems necessary. Part three described how the functioning of a women's sport organization accomplishes this goal. The establishment of a new orientation in sport, the gynandrous, awaits us: this is the promise of a new day when we accomplish the synthesis of the past dichotomies.

35. Joseph A. Califano, "Press Release Statement," *HEW NEWS* (Washington, DC: U.S. Department of Health, Education and Welfare, 6 December 1978), p. 11.

ANNALS, AAPSS, 445, Sept. 1979

From Chattel to Employee: The Athlete's Quest for Freedom and Dignity

By EDWARD R. GARVEY

ABSTRACT: Sports owners in America have always played by different rules than other corporate entities. Team owners are given tax breaks that are the envy of other businessmen; baseball owners have divided up the country among themselves, giving exclusive franchises to each other, and yet the U.S. Supreme Court has ruled that such practices are exempt from federal antitrust laws. Football, hockey, basketball, baseball, and soccer owners operated a reserve system that divided up player talent in the same way they divided the country into exclusive franchises. When the NFL asked for an exemption from antitrust laws which would allow the clubs to pool their television rights, the Congress gave it to them. That exemption allowed the club owners to bargain collectively with the networks, control the announcers, and kill off future competitors. In 1966, Congress acted again to help the NFL, providing another exemption from the antitrust laws for the merger of the American Football League and the NFL. The professional athlete has had no choice but to accept the system imposed by management. However, the courts have started to change and athletes now have unions to help them gain dignity and freedom from the reserve system. Whether the athletes will continue to make progress in the 1980s is the primary question posed in this article.

Edward R. Garvey was labor counsel to the NFL Players Association and was elected Executive Director of the NFLPA in 1971. He helped to organize the North American Soccer League Players Association, the Major Indoor Soccer League Players Association, and an umbrella group for all athletes called Professional Athletes International.

THE history of professional team sports in the United States is a story of exploitation of gifted athletes by a few wealthy people who call themselves "owners." For over a century they have considered the employee-athletes "chattel" to be owned, sold, traded, suspended, or fired at their whim. Only in recent years have some owners been forced to refer to their "chattel" as "employees" and themselves as "employers." The reason these wealthy men considered their employees to be possessions or property can be understood through an examination of the reserve system. The reserve system in team sports allowed owners to treat athletes as property because it gave the owners complete control over the athlete's professional life from entry to exit. The reserve system has best been described as a web of restrictive measures designed to deny to the athlete any voice in naming his employer at any time in his professional career. When a person is given but one choice of where and for whom he will work, he is not in a good position to make demands, argue about working conditions, receive a fair salary. The reserve system is designed to hold salaries down, stifle dissent, and allow the owner to dictate lifestyle if he so desires. It is a system, indeed an American phenomenon, that should be understood by fan and nonfan alike.

ELEMENTS OF RESERVE SYSTEM

The reserve system consists of five basic elements: the selection of players, the retention of the players by the team, discipline and control of the athletes, resolution of disputes, and the ability to sell or trade the athlete. The system was created by management, not by players, the courts, or the Congress. Wealthy owners of club franchises in baseball, football, basketball, soccer, and hockey imposed this system upon their employees. Because the sports leagues monopolized their particular sport, anyone who disagreed with the system had only two choices, accept it or not practice his profession.

The draft: entry into the league

The first element of the reserve system is called the draft.[1] The draft determines where the very best athletes will be allowed to try out for a position with a team. Average or even above average athletes at the high school or college level need not apply to play professionally. You must be one of the truly extraordinary athletes in the country to have a chance to make it. Of thousands of graduating senior athletes each year, only about 300 will make the grade in the NFL, 50 in the NBA, a few more in baseball. The odds are against the hopeful applicant anyway but the reserve system will make the odds against making it even greater.

The NFL draft is the most publicized in team sports and it best demonstrates the first phase of the system. In May, the 28 NFL club owners and their Commissioner meet at the Waldorf Astoria in New York to "conduct the college draft." Translated that means the teams will divide among themselves all the best available football talent in the country. The teams take turns selecting until the best players in the coun-

1. Like all other elements of the reserve system, there are some modifications of the draft resulting from court decisions and collective bargaining, but the reserve system will be described as it existed in the NFL as late as 1977 and in the NASL as it is in 1979.

try have been assigned to one team in the League. Once a player is assigned to a team, the other 27 teams agree not to select that player, talk to him, or hire him. Thus he must go to work for the team selecting him in the draft whether he likes that team or not.

If the athlete grew up in Wisconsin, he may have a strong desire to stay in the state and work for the Green Bay Packers. If he went to UCLA he may have emotional or financial reasons to perform for the L.A. Rams. If he is a defensive back he may have looked over the defensive backs on all NFL teams to determine where he would have the best chance of making a team. None of this matters. The athlete has no choice of teams. He is not consulted and his views are completely unimportant to the owners. The system will decide where he will have to try to make the grade professionally.

The standard form contract

The television sportscasters and the sportswriters herald news of the draft. The athlete does not hear from his new employer, he learns on the radio or from the local sportswriter where he will go to work. The team is in no hurry to contact him because the boycott by all other NFL teams leaves him no choice anyway.

When the athlete reports to the club which chose him, the general manager will present him or his agent with a printed form contract generally known as the Standard Player Contract. All team sports have one. The contract is prepared by League attorneys and any modification of the form contract must be approved by the League Commissioner. If he does not approve of a negotiated contract then the contract is null and void. The reason for vesting this enormous power in the Commissioner is to protect every aspect of the reserve system. The system that will govern the new employee's career is carefully placed in the standard form. A star athlete might exact changes in the system from a weak owner; therefore, the Commissioner must approve changes to protect the "system" from a weak owner granting concessions to the athlete.

The heart of the reserve system is found in the Standard Player Contract. Every player must sign the printed form. If he won't sign the contract he will not be allowed to work in the League. Joe Kapp had a signed contract with the New England Patriots but it was not the printed form and when he refused to sign the standard contract Commissioner Rozelle forced him out of the League.[2] No other players have been able to sign a contract other than the printed standard form.

Naturally, the standard contract favors management since it was drafted by League attorneys to protect the reserve system. Typically, the contract can be terminated at any time by the club but the athlete can never cancel the contract in order to try out for another team.[3] Not allowing an athlete the right to resign and go to work for another team is an important element of the reserve system. Because a player cannot quit but can be suspended without pay by the club owner or the Commissioner, he must obey all rules and regulations of the club and the League, whether they be reasonable or unreasonable, or be denied employment in his profession.

2. Kapp successfully challenged the standard player contract, *Kapp vs. NFL*, 390 F. Supp. 73 (N.D. Cal. 1974), but a jury found he wasn't damaged by the illegal contract.

3. In 1978, only 3 percent of NFL player contracts were guaranteed as so-called no-cut.

For example, Lance Rentzel was suspended without pay for a year by Commissioner Pete Rozelle.[4] The Los Angeles Rams were forced to obey Rozelle's order and therefore Rentzel could not perform for the Rams. Because he was still "under contract" to the Rams, all other NFL teams refused to employ him. Another case in point was the suspension without pay of two Miami players, without a hearing, and because the players could not quit the Dolphins and go to another team, the Dolphins suspension completely eliminated the athletes' ability to earn a living at professional football. A worker in another industry who is suspended can always quit and go work for the competitor. The same is not true in the reserve system.

The draft also eliminates the athlete's bargaining power. If 28 teams could bid for his services, he could establish his real worth, he could demand concessions in the standard contract. But he can talk with only one club and thus his new employer can just tell him what his salary will be. There are no true negotiations when you have no choice but to accept the offer made by the only club that can employ you.

Commissioner power

The standard contracts from the very beginning established the commissioner of each league as the final authority for settling disputes. If a club suspended a player, the player could not go to court because he waived his right to go to court when he signed the Standard Player Contract. He also "agreed" that the Commissioner would be the arbitrator of any disputes and that his decision would be "final, binding and unappealable." The athlete also was forced to agree that the Commissioner would be arbitrator even if the athlete was appealing from a decision made by the Commissioner. Lance Rentzel was suspended by Rozelle. If he had appealed that suspension his only choice would have been to appeal it to the very person who had suspended him.

Why would an athlete agree to such an obviously unfair system? Because it's part of the standard contract and even if the club agreed to an impartial arbitrator, the Commissioner would not approve of that change in the contract. In other words, the athlete had no choice but to waive his right to take his dispute to court and to substitute the Commissioner for a judge.

Option clause and compensation clause

The element of the reserve system that has received the most attention by the sports unions, the courts, and the press comes into play after the athlete has performed all that was required of him under his standard contract. He went to the team which drafted him, signed the standard contract without any real negotiations, obeyed all of the unilaterally imposed rules, talked with no other NFL teams about future employment, and now his contract is over. But is it? At the end of an athlete's contract he learns of the option clause. The sports press often refers to it as "his option." He will soon learn it is not his option, it's the club's exclusive option to retain his services for one more year at a fixed rate of pay. For the option year the team need not even go through the motions of bargaining with the player for salary items and other

4. Rentzel had been arrested for possession of marijuana.

working conditions. In baseball the club could cut his salary by 25 percent, in football the pay was automatically reduced by 10 percent.

Knowing the player had to accept a pay reduction during the option year, the owner had the athlete over a barrel. If they offered him a 5 percent pay increase for another year (and another option) the player might take it because there was as much as a 30 percent difference in pay. In fact, most players take the new offer and therefore never get to the true end of the contractual obligation to the club.

If a player refused the new contract and instead performed under the option clause, he became a "free agent" at the end of that year. Theoretically, he was free for the first time in his career to select the club of his choice. What an opportunity. He could then look forward to bids from 27 other teams. For the first time he could truly negotiate a contract. But at that point Catch-22 enters in. The reserve system would not be complete if veterans were allowed to negotiate with all clubs. Competitive bidding would raise salaries substantially and could cause cracks in the entire system.

In baseball the owners cut off any true freedom by agreeing among themselves that at the end of the option year the club could renew the option again. In fact, the owners agreed among themselves that it was a perpetually renewable option. The player would never be free because the club would keep renewing the option until the player finally retired.

Football was more subtle. The NFL told all who would listen that the player was really free after the option year. The NFL option was not renewable. What they forgot to discuss was a clause in the NFL Constitution which required the team signing an option playout player to compensate the team "loosing" the player. If the two teams could not agree on compensation, then the Commissioner of the League,. Pete Rozelle, would name players or draft choices as compensation. Free movement of players within the League would increase salaries and therefore the Commissioner's job was to discourage free movement by punishing clubs who signed free agents. Therefore, the compensation named by the Commissioner would be unrealistically high which would discourage teams from signing option playouts.[5] This compensation agreement became known as the "Rozelle Rule" because he was the first Commissioner in sports who actually used such a rule. The Rozelle Rule became just as effective as the perpetually renewable option in baseball. The bottom line was the same. Veterans were not allowed to select their employer. In effect, the option clause in baseball and compensation rule in football were just as effective for the control of veterans as the draft is for control of rookies.

DEVELOPMENT OF RESERVE SYSTEM

It seems impossible that such a one-sided system was allowed to develop and flourish. Yet the reserve system is very much alive today in professional team sports. Much of it has been modified in leagues where the unions have been in existence for some time but in the North American Soccer League the system

5. Rozelle named compensation only twice in 10 years because of the fear generated by his decision to grant extremely high compensation to San Francisco when Dave Parks was signed by New Orleans in 1967.

is almost pristinely pure. How did it develop?

The reserve system had its start in baseball in the 1870s when a group of owners met in secret and decided to reserve to each club a number of veteran players. Because those players who were reserved would only receive a bid from the team which had reserved them, salaries were controlled. That worked so well that the rest of the reserve system developed from there. If control of salaries was the only goal, an equally effective device would be for the league to set a salary budget for all teams with a league imposed sanction against those who exceeded the budget. The NASL tried that early in its history. But control of salaries is only one of the goals of the reserve system.

Team owners led a charmed life after developing the reserve system. Not only did they control salaries and therefore maximize profits but the system was immunized from attack by an early decision of the U.S. Supreme Court.[6] The Court held that sport was purely a local matter and was therefore not in interstate commerce. The fiction developed that somehow sport was not business. Later, when that holding became too obvious a farce, the Court simply held that it was not going to correct its earlier mistake.[7] Thus, Major League Baseball was exempt from federal antitrust laws because it was not in interstate commerce. With an antitrust exemption granted by the Court, the owners began to believe and act as if they were above the law as, indeed, they were.

6. *Federal Baseball Club of Baltimore v. National League*, 259 U.S. 200 (1922).

7. *Toolsen v. New York Yankees*, 346 U.S. 356 (1953); *Flood v. Kuhn*, 407 U.S. 258 (1972).

Because the owners had complete control over the athlete through the application of the reserve system, they did not fear labor unions. They could easily get rid of a union agitator by common consent. If they didn't fire him they would trade him.[8] Without a union to contend with, the labor laws could be ignored just as the antitrust laws were ignored. For the better part of the first 100 years of league sports, the owners became a law unto themselves. Each league of major sports became a monopoly without government regulation. As a substitute for outside regulation, the owners, as a matter of course, hired and paid a commissioner to "regulate" their league. They argued that if they had their own commissioner then there would be no reason to have Congress set up a regulatory agency to make sure that the public interest was protected. The commissioner would look out for the best interests of the fans and the players. (That makes as much sense as having the auto industry appoint the head of the Environmental Protection Agency.)

Everything was going their way. The courts were on the side of sports management, the players had no choice but to cooperate, and the Congress either left them alone or gave them a helping hand. The result was complete monopolization of team sports. The NFL had no competition until after World War II and that competitor was quickly de-

8. In the NFL, it is almost standard operating procedure to trade or fire the union officers and strong player reps. John Mackey, President from 1970 to 1973 was cut by Baltimore in 1972; Bill Curry, President during the 1974 strike was cut by Houston that year; Kermit Alexander who succeeded Curry was cut by Philadelphia, and Len Hauss, elected in January of 1978 was cut in August of that year. The NASL is following a similar pattern.

stroyed.[9] The other pretender to the crown lasted longer and was ultimately merged into the NFL so that it could retain its monopoly position.[10] Major League Baseball stood alone in controlling the baseball market as did the National Hockey League and NBA in hockey and basketball respectively.

The athlete had no where to turn when abuses occurred so he suffered the abuses and said little. Freedom of speech is an important part of the U.S. Constitution but not the Constitution of the NFL or the NHL. "Slave?" No, too strong a word because the servitude was voluntary. Sam Ervin summed it up in 1971:

> The term "chattel" applied to human beings and the condition it stands for are so abhorrent that we don't even like to acknowledge that they ever existed. Yet, in a real sense that is what these hearings are about today—modern peonage and the giant sports trusts.[11]

THE COURTS SHIFTS: ENTER CONGRESS

In 1957 the golden era for management started drawing to a close. Owners in football, basketball, and hockey felt assured that if baseball were exempt from antitrust attack, surely the other sports were likewise exempt. The U.S. Supreme Court changed all of their assumptions in January 1957, when it handed down the decision in *Radovich vs. NFL*,[12] in which the Court nodded toward precedent in baseball, suggested it was a mistake, and concluded that while baseball's exemption would continue all other team sports were subject to the antitrust laws. It wasn't Emancipation Proclamation but it did give the athletes an opening to seek freedom.

The year following the *Radovich* decision the owners rushed to Congress begging for reversal of the Court's decision. Congress nearly gave them what they wanted, a complete exemption from the antitrust laws, but fortunately for athletes of the future, the law was never enacted. Had the owners succeeded in gaining a Congressional exemption, the sports unions might never have emerged and certainly the reserve system of 1979 would be as onerous as the reserve system of the fifties and sixties.

Before management could launch another effort in Congress, new problems developed. The American Football League was formed by wealthy oilmen to challenge the NFL's monopolization of pro football. The American Basketball Association challenged the NBA and the World Hockey Association competed with the established NHL. The owners' concern during times of competition is destruction of the competitor not concern about the reserve system within the league. No serious effort to obtain Congressional exemption has been made since the late fifties.

But just as the first 50 years of the century saw the courts protect the owners and help them snuff out player rights as well as competition, the decade of the sixties would see the Congress take up where the courts left off. Congress would help eliminate competition even though it would not exempt the reserve sys-

9. The All-American Football Conference existed for three years, 1946–1949. The NFL absorbed the three economically stable teams and the others went out of business.

10. American Football League consisted of 10 teams and all 10 came into the NFL.

11. Hearings, S. 2373, Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 92nd Congress, 1st Sen. 12 (1971) (Hearings on NBA-ABA merger.)

12. *Radovich v. NFL*, 352 U.S. 445 (1957).

tem from the antitrust laws. The first and most important aid was passage of an amendment to Title XV of the U.S. Code. Section 1291 was added:

> The antitrust laws . . . shall not apply to any joint agreement by or among persons engaging in or conducting the organized professional team sports of football, baseball, basketball or hockey, by which any league . . . sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games . . .

This exemption allowed the leagues to package the TV rights of all clubs so that the commissioner could bargain with the networks collectively. As sports became more and more popular on television and the demand for games became greater and greater the power of the league as a result of this antitrust exemption became enormous. The commissioner could veto anyone associated with a broadcast, eliminate an errant announcer for "conduct detrimental to football," and determine scheduling. The leagues, not the television networks, decided to black out home games in order to boost the local gate.

In other words, their antitrust exemption for pooling of television rights gave the NFL more power than the networks. It allowed the NFL to keep the upstart World Football League off a major network in 1974 and 1975 which resulted in the premature death of the WFL.[13] In addition, the exemption earned tens of millions of dollars more for the owners in their negotiations with the networks then they would have received had each club individually negotiated with the networks. By 1979, the average NFL team will earn $5.6 million for TV while paying coaches, players, and trainers less than $3.5 million. In other words, the owners of most clubs could pay all of their expenses with money received from television. Income at the gate is nearly pure profit.

A second exemption from the antitrust laws came in 1966 for the NFL. This time the Congress took even less time to accommodate the owners. The television exemption swept through the Congress in 72 days; the AFL-NFL merger exemption took less than two months and did not even require hearings in the Senate. The owners were playing the Congress like a fiddle just as they had played the courts for 50 years before. What about the fans and the players? Their day would have to wait. Millionaire owners must be served by our institutions before others are invited to the table. The owners of other sports franchises in basketball, hockey, and baseball have benefitted from the television exemption but they have never received any additional anti-trust exemptions.

UNIONS COME INTO SPORTS

The tremendous success of these millionaires in manipulating the government allowed them to treat players with disdain. If they could handle the Congress and the courts, what player would dare challenge their power? A partial answer came toward the end of the sixties and the early seventies in the form of player unions. Player unions had to fight for recognition and when they received it, management would only agree to

13. The World Football League started play in 1974 and went out of business in 1975. In addition to keeping the WFL off of the networks, NFL teams kept WFL teams out of major markets such as Washington, Philadelphia, and New York through exclusive lease provisions with stadium authorities.

bargain minor economic issues. No assault on citadel reserve system was tolerated. Pensions, insurance, even impartial arbitration of limited issues were negotiated but the owners would never discuss the reserve system. Anyone who challenged the reserve system was a threat and management did everything in its power to discredit those who challenged the system. If the draft were bargained out of existence, the system would fall from the start. If the option or compensation clauses were eliminated, then the system would be broken by the veterans. Thus they spared no effort to preserve every aspect of the reserve system from the draft to the compensation clause.

Ironically, it was not until the player unions turned to the courts that any real progress was made. The same courts that aided and abetted the owners in developing the reserve system would now start to dismantle the system. The Standard Player Contract in football was found to violate antitrust laws in *Kapp vs. NFL* (1974), the draft was declared illegal in *Yazoo Smith vs. NFL,*[14] (1976), the Rozelle Rule was found to be per se illegal in Mackey vs. NFL (1975).[15] Little by little, the system started to come apart in football. In baseball an arbitrator's dramatic decision ended nearly 100 years of the reserve clause when he declared that the renewable option was elusory. Even though everyone understood the baseball reserve clause to be a perpetual option, the arbitrator ruled that because the contract didn't say that the option was renewable ad infinitum, it was only a one year option. Faced with complete freedom for the veteran player, management suddenly decided that it was better to negotiate with the baseball players union, a new system that would restrict players to some extent. The result has been a dramatic increase in salaries in baseball. A handful of players became near millionaires and the average salary jumped from $51,500 in 1976 under the old renewable option scheme to near $96,000 in 1978 under the new system.[16]

Sports owners were beginning to panic. The courts were no longer helping them and the Congress would not exempt their activity. They now turned to the unions to give them the very exemption that they sought from the Congress and the courts. In the *Mackey* appeal,[17] the NFL owners established an important principle, namely that a reserve system accepted by the union as a result of arms length collective bargaining was immune from attack. The court held that in addition to an exemption granted by a court or the Congress, the union could also grant an exemption from the antitrust laws. The Eighth Circuit Court of Appeals in the *Mackey* decision held that the union had a legal duty to bargain over the reserve system and if it accepts restrictions on players then the athletes, as members of the bargaining unit, cannot attack the system under the antitrust laws.[18] In other words, the unions,

14. *Yazoo Smith v. NFL*, 420 F. Supp. 738 (D.D.C. 1976), F.2d (1978).

15. *John Mackey, et. al., v. NFL, et. al*, 407 F Supp. 1000 (D. Minn. 1975), Rev'd on per se issue 543 F.2d 606 (8th Cir. 1976).

16. The NFL average salary in 1978 was $63,200 under a more restrictive compensation system.

17. *John Mackey, et. al., v. NFL, et. al.*, 543 F.2d 606 (8th Cir. 1976).

18. The court held that there were two tests. First, the subject must be a mandatory subject of bargaining. Second, it must be the product of arms length good-faith bargaining.

that have struggled for so many years to get rid of the hated reserve system, could now shield the owners from attack because the reserve system must be bargained and if it is bargained it can be accepted.

While some union advocates might feel elation at the sudden elevation of the union's role, the Eighth Circuit decision was indeed a mixed blessing. If the athlete is now denied access to the courts under the labor exemption theory, how is he protected if his union is overwhelmed by management? What if the union accepts the old baseball renewable option in return for increased pension money? In other words, what is the result if the union gives away player rights in exchange for pet projects of the leadership? What happens if the union is too weak to resist management's insistence on a restrictive reserve system?

The court has placed an enormous burden on the shoulders of the union, particularly when the union is bargaining with 28 millionaires operating an unregulated monopoly. In effect, the courts have handed off the antitrust laws to the sports unions and left the stadium. They aren't even going to sit and watch the results.

The NFL Players Association argues that each restriction on the professional athlete must be examined on its own merits. The NFLPA does not believe that the old draft and the Rozelle Rule could be accepted as a quid pro quo for economic gain but that position is in some doubt. The *Mackey* court did not decide the quid pro quo issue[19] but it would be difficult to believe that a court will go behind a collective bargaining agreement to determine whether or not there truly was good faith bargaining on a reserve system. The assumption will be that if it's in an agreement then the union accepted it in good faith.

A recent decision in hockey gave the unions hope that the courts might actually go behind the agreement. A Federal District Court in Michigan found that the compensation provision in the collective bargaining agreement between the National Hockey League and the National Hockey League Players Association violated the antitrust laws.[20] The court heard testimony that the new reserve clause had not been bargained for but rather insisted upon by the NHL.[21] Based on the testimony, the court denied the labor exemption shield to the hockey owners even though it was arguably accepted by the NHLPA in return for economic benefits.

Had *McCourt* been upheld, those of us in leadership roles in sports unions would have breathed easier. Gone would be the fear that the economic giant could purchase the reserve system from an economically weak union. But the Court of Appeals overturned the lower court and restored the NHL compensation plan or "Rozelle Rule." The Court in a 2 to 1 decision held that the inclusion of the option and compensation clauses in the collective bar-

19. In footnote 18, the Court said: "In view of our holding, we need not decide whether the effect of an agreement extends beyond its formal expiration date for purposes of the labor exemption."

20. *McCourt v. NHL*, F. Supp. (E.D. Mich. 1978) F.2d (3rd Cir. 1979). (McCourt was granted a stay pending his appeal to the U.S. Supreme Court.)

21. The 8th Circuit Court refused to immunize the Rozelle Rule in football. "The union's acceptance of the Rozelle Rule in the initial collective bargaining agreement . . . cannot serve to immunize the Rozelle Rule from the scrutiny of the Sherman Act." 543 F.2d at 616.

gaining agreement immunized them from attack by a member of the bargaining unit. The appellate court decision would give credence to the position that the courts will not go behind an agreement but will accept at face value what the union accepts.

An even more disturbing prospect could arise if collective bargaining does not produce a new agreement. In that case, there is at least an argument that the sports league could unilaterally impose a new reserve system on grounds that an impasse had been reached.[22] If the union is too weak to strike, it is conceivable they would get away with it. I would like to believe that no court would approve such a system and that "acceptance" by the union is the key to any immunity to be granted. If a court were to allow management to get away with unilaterally imposing such a system then all of the progress made in the seventies will be wiped out in the eighties.

THE FUTURE OF THE RESERVE SYSTEM

Just as in the nonsports corporate world, more and more economic power is becoming concentrated in fewer and fewer hands. Cross-ownership in sports is as popular as conglomerates and indeed some conglomerates are now on the sports scene. Warner Communications owns the New York Cosmos in the NASL, and Gulf and Western owns the NASL Diplomats, the NBA Knicks, and NHL Rangers. Lamar Hunt owns the NFL Chiefs, the NASL Tornados, and a part of the NBA Bulls. Abe Pollin owns the NHL Capitals and NBA Bullets.

If it was tough for players to dismantle the reserve system in the seventies, it may be nearly impossible in the eighties, given the increased economic power in the hands of the owners. The Congress will probably do nothing to help the athletes and the courts may be closed off as a result of the labor exemption. The only hope of the players is for their union to get help from other labor unions and to work together.

If all athletes work together, they have a chance to eliminate the draft, the option-reserve-compensation system, and gain real dignity and a fair share of the revenues. If they remain separate, divided, and aloof to the problems faced by fellow athletes, the reserve system of the 1940s will be reimposed by the conglomerates.

The athlete has made slow but steady progress for the past decade. Some of us are concerned that progress will stop because the courts have backed away. Others believe that complete freedom is inevitable because the professional athlete has tasted a little freedom and will not be satisfied until he or she will be persons and employees rather than property to be bartered and sold.

22. Ibid, fn. 19.

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Congress and Professional Sports: 1951–1978

By ARTHUR T. JOHNSON

ABSTRACT: The relationship between government and professional sports is analyzed by reviewing Congressional activity relative to professional sports during the period 1951–1978. During this time, nearly 300 pieces of sports legislation have been proposed. Congressional concern with sports is explained by the impact of sports events, such as franchise moves, upon specific constituencies, and league-initiated requests for assistance. Conflicting perceptions in Congress of professional sports as pure sport and big business help explain a change in Congress' posture toward the sports leagues. The politics of professional sports is explored, and a Congressionally defined right to access is identified and explained. The article concludes that due to Congress' changing perception of professional sports, it has, on occasion, enacted legislation opposed by the leagues. Nevertheless, the political influence of club owners combined with the persistence of an idyllic image of sports within Congress make such instances rare.

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AMERICANS' belief that athletics are free from government interference and regulation persists as one of Sportsworld's[1] strongest myths, although it is belied by the frequent and persistent interactions between Sportsworld and public officials.[2] In order to understand the dynamics of change within American athletics, especially professional team sports, it is necessary to understand that issues of Sportsworld, such as those of franchise relocation, league mergers, free agentry, and television blackouts are public policy issues the outcomes of which are decided by the political process.

Since 1950, nearly 300 pieces of legislation having professional sports as their sole concern have been introduced in Congress. Committees of the Senate and House of Representatives have heard thousands of hours of testimony directed to these bills. Administrators of sports leagues have turned to Congress for assistance when faced with threats to their sport. Roger Noll, a leading critic of sports entrepreneurs, has concluded that "the most likely source of significant change in sports operations, other than player relations, is Congress."[3] Finally, the Supreme Court consistently has invited Congress to act with regard to the most basic policy issues of professional sports—those of anti-trust and the baseball anomaly.[4]

This article, therefore, seeks to clarify the relationship between government and professional sports by summarizing Congressional activity related to professional sports and identifying the stimuli for Congressional intervention in professional sports.[5] An analysis of Congressional perceptions and the politics of professional sports suggests that Congressional perception has been changing since the mid-1960s and, on occasion, Congress has been willing to enact legislation opposed by the leagues. Nevertheless, it appears that the political power of club owners, combined with the persistence of an idyllic image of sports within Congress, makes such instances rare, dependent upon extraordinary circumstances.

1. "Sportsworld" is a term borrowed from Robert Lipsyte's *Sports World: An American Dreamland* (New York: Quadrangle, 1975).

2. For examples of such interactions and a general introduction to public sports policy, see Arthur Johnson, "Public Sports Policy: An Introduction," *American Behavioral Scientist* 21 (January/February 1978): 319–344. "Professional sports" in this article refers only to the four professional team sports of baseball, basketball, football, and hockey.

3. Roger Noll, "Alternatives in Sports Policy," in Roger Noll, ed., *Government and the Sports Business* (Washington, DC: Brookings Institution, 1974), p. 427.

4. See *Toolson* v. *New York Yankees*, 346 U.S. 356 (1953); Radovich v. National Football League, 352 U.S. 445 (1957); *Flood* v. *Kuhn*, 407 U.S. 258 (1972); but see also, *Saleerno* v. *American League*, 429 F.2d 1003 (2d Cir. 1970). The "baseball anomaly" refers to the fact that of all sports, only baseball enjoys a general exemption from federal antitrust laws.

5. For narratives describing specific sports legislation, see relevant sections of Lionel S. Sobel, *Professional Sports and the Law* (New York: Law-Arts Publishers Inc., 1977); Philip R. Hochberg, "Second and Goal to Go: The Legislative Attack in the 92nd Congress on Sports Broadcasting Practices," *New York Law Forum* 18 (Spring, 1973): 841–896; Harry Shooshan, "Confrontation With Congress: Professional Sports and the Television Anti-blackout Law," *Syracuse Law Review* 25 (Summer, 1974): 713–745; Philip Hochberg, "Congress Kicks a Field Goal: The Legislative Attack in the 93rd Congress on Sports Broadcasting Practices," *Federal Communications Bar Journal* 27 (1974): 27–29.

PROFESSIONAL SPORTS LEGISLATION, 1951–1978 AND THE SOURCES OF CONGRESSIONAL INTERVENTION

Congress virtually ignored the professional sports leagues before the 1950s. However, since that time, an increasing amount of sports legislation has been proposed, despite a Congressional desire "to remain in the grandstand." Tables 1, 2, and 3 summarize professional sports legislation introduced in Congress. The tables also list significant occurrences in Sportsworld. They suggest a correlation of legislative interest with the sporadic turmoil in Sportsworld as symbolized by franchise movements. Not apparent from an analysis of the tables is a second significant factor which has influenced Congressional intervention in sports. These are requests for assistance from the professional sports leagues, often in response

TABLE 1

PROPOSED SPORTS LEGISLATION* AND SELECTED SPORTSWORLD EVENTS 1951–1960 (82ND–86TH CONGRESS)

		Number of Sports Bills Introduced in Senate and House							
		Anti-Trust Legislation Proposed in:		Broadcasting Legislation** Proposed in:		Other Legislation Proposed in:		Total Legislation Proposed in:	
Sportsworld Events and Judicial Decisions	Year	Senate	House	Senate	House	Senate	House	Senate	House
College basketball gambling scandals	1951	1	3	—	—	0	3	1	6
Toolson v. N.Y. Yankees	1952	—	—	—	—	—	—	—	—
U.S. v. NFL	1953	—	—	1	5	—	—	1	15
	1954	2	1	—	—	—	—	2	1
U.S. v. Int. Boxing Club of N.Y.	1955	—	—	—	—	—	—	—	—
	1956	—	—	—	—	0	1	0	1
Radovich v. NFL	1957	0	7	—	—	0	3[a]	0	10
2 N.Y. Teams move to West Coast	1958	1	8	—	—	2	1[b]	3	19
AFL formed; Formation of new baseball league announced	1959	3	7	—	—	0	1	3	9
AFL-ABC television contract	1960	1	10	—	—	—	—	1	0
	Totals:	8	26	1	5	2	9	11	40

* Does not include more general legislation which may affect professional sports such as tax, copyright or labor legislation.

** For purposes of this article sports broadcast legislation is separated out from other anti-trust legislation.

[a] D.C. Stadium Act (PL85-300).

[b] Amendment to D.C. Stadium Act (PL86-561).

TABLE 2

PROPOSED SPORTS LEGISLATION* AND SELECTED SPORTSWORLD EVENTS
1961–1970 (87TH–91ST CONGRESS)

		Number of Sports Bills Introduced in Senate and House							
		Anti-Trust Legislation Proposed in:		Broadcasting Legislation** Proposed in:		Other Legislation Proposed in:		Total Legislation Proposed in:	
Sportsworld Events and Judicial Decisions	Year	Senate	House	Senate	House	Senate	House	Senate	House
Baseball Expansion; College basketball gambling scandals; U.S. v. NFL	1961	2	3	1	2[a]	1	2	4	7
	1962	—	—	0	1	—	—	0	1
	1963	1	0	0	1	2	2	3	3
Braves rumored to be moving to Atlanta; CBS buys N.Y. Yankees	1964	0	14	0	2	0	1[b]	0	17
	1965	1	1	—	—	—	—	1	1
NFL-AFL merger	1966	1	15[c]	0	3	—	—	1	18
ABA formed	1967	0	2	1	1	0	6	1	9
	1968	—	—	—	—	—	—	—	—
2 umpires fired apparently for union activity	1969	0	2	0	2	0	5	0	9
Umpires strike; ABA-NBA merger agreement blocked by courts & opposed by players.	1970	1	2	—	—	—	—	1	2
	Totals:	6	39	2	12	3	16	11	67

* Does not include more general legislation which may affect professional sports such as tax, copyright or labor legislation.
** For purposes of this article sports broadcast legislation is separated out from other anti-trust legislation.
[a] Telecasting of Professional Sports Contests (PL87-331).
[b] Prohibition of Bribery in Sporting Contests (PL88-316).
[c] NFL-AFL merger (PL89-800).

to, or in anticipation of, potentially harmful judicial decisions.

Table 1 reveals that antitrust issues comprised two-thirds of the sports legislation introduced in the 1950s. In 1952, Professional Baseball was a defendant in eight court cases and faced crippling financial penalties if it lost those cases. Baseball found itself in need of legislative protection, and "friends of baseball" in Congress introduced legislation designed to grant all professional sports enterprises, including baseball, immunity from antitrust laws.[6] Although no action

6. "Organized Baseball," House Report 2002 82nd Congress 2nd Session (1952), p. 190, hereinafter cited as *Organized Baseball*.

TABLE 3

PROPOSED SPORTS LEGISLATION* AND SELECTED SPORTSWORLD EVENTS 1971–1978 (92ND–95TH CONGRESS)

Sportsworld Events and Judicial Decisions	Year	Number of Sports Bills Introduced in Senate and House							
		Anti-Trust Legislation Proposed in:		Broadcasting Legislation** Proposed in:		Other Legislation Proposed in:		Total Legislation Proposed in:	
		Senate	House	Senate	House	Senate	House	Senate	House
Senators move to Texas announced; Super Bowl Blackout; Ali-Frazier fight on closed circuit TV	1971	3	12	2	16	1	10	6	38
Baseball players strike; Flood v. Kuhn; Super Bowl Blackout	1972	0	1	2	8	2	1	4	10
	1973	1	1	1	29[a]	2	4[b]	4	34
Football players strike	1974	—	—	—	—	0	5	0	5
Arbitrator grants free agency status to baseball players	1975	0	1	1	5	0	4	1	10
Owners lockout baseball players; Finley sues Kuhn for cancellation of player sale; NBA-ABA merger	1976	0	1	—	—	0	1[c]	0	2
NBA referees strike	1977	—	—	1	0	0	4	1	4
Baseball umpires strike	1978	1	2	3	10	—	—	4	12
	Totals:	5	18	10	68	5	29	20	115

* Does not include more general legislation which may affect professional sports such as tax, copyright or labor legislation.
** For purposes of this article sports broadcast legislation is separated out from other anti-trust legislation.
[a] Sports Anti-Blackout Law (PL93-107).
[b] RFK Stadium Seating Capacity Increased (PL93-72).
[c] Creation of House Select Committee on Professional Sports (H.Res.1186).

was taken on the floor of Congress with regard to the proposed legislation, the precedent of seeking legislative relief for the professional sports leagues had been established.

In 1957, the Supreme Court declared professional football subject to the antitrust laws and suggested that Congress resolve the baseball anomaly.[7] Immediately, three types of sports antitrust legislation were proposed.[8]

The first would include professional baseball under the definition of trade or commerce as found in the Sherman and Clayton Antitrust Acts. This would bring that sport

7. *Radovic* v. *National Football League*, 352 U.S. 452.

8. The following is based upon "Applicability of the Anti-trust Laws to Certain Aspects of Designated Organized Professional Team Sports," Senate Report 1303, 88th Congress 2nd Session (1964).

under the authority of federal antitrust laws. If enacted into law, it would remain for the courts to determine which of baseball's practices were reasonable under antitrust law. The second type of legislation would declare all federal antitrust laws inapplicable to professional team sports. A third set of bills received the most attention and support in Congress. These bills sought to apply the federal antitrust laws to professional sports, while exempting practices related to: playing rules, organization of leagues and associations, territorial rights, and employment of players. Such exemptions would make player drafts, the reserve and option clauses, territorial monopolies, and the authority of league commissioners immune from antitrust laws. The ostensible purpose was to make the four professional team sports equal under the law. The effect, however, would have been to protect the critical operations of the sports leagues from antitrust challenges. Baseball saw this legislation as an effective tactical device to oppose any effort designed to completely strip baseball of its antitrust exemption.

Legislation embodying the third approach passed one House of Congress in separate terms (1958 and 1965), but each time failed to reach the floor of the other House for adoption. This legislation often was tied to league expansion and justified in terms of the principles enunciated by Senator Kenneth Keating (R-N.Y.) during a floor debate in 1960:

(1) . . . it is preferable to accord equal treatment under the law to all four of these sports . . . they are essentially alike and, therefore logically should be treated alike in our laws.
(2) The great popularity of our national pasttime, the great upsurge in our population and the growing ease of rapid transportation demand that the major leagues be expanded to make the game truly national in scope.
(3) We must not unduly intrude the Federal Government into the day-to-day operations of professional baseball.
(4) We must avoid transferring the scene of sports clashes from the playing fields to the courtrooms.[9]

Supporters of the legislation received no opposition to the assertion that exemptions were necessary to maintain competitive balance within the leagues. The exemptions, therefore, were justified as being essential solely to a game's sports aspect as opposed to its business aspect which would be subject to antitrust laws.[10] Observers of sports today find such a distinction difficult to make and suggest that matters such as the selection and employment of players and exclusivity of territorial rights are crucial to a sport's degree of financial success.

Table 2 reveals that the number of sports bills increased by more than one-half in the 1960s. Sports broadcasting policies and issues other than antitrust became new concerns of Congress. The antitrust attacks on baseball were quieted at the beginning of the decade by league expansion, only to be renewed later in the 1960s because of abrupt franchise movements. For example, the announced intention to move the Milwaukee Braves to Atlanta motivated Senator Proxmire (D-Wis.), in 1965, to attempt to amend proposed sports antitrust legislation so as to require equal sharing of

9. 106 Cong. Rec. 14732 (28 June 1960).

10. See, for example, comments of Rep. Frank Horton, 11 Cong. Rec. 138 (6 January 1965).

television revenues among a league's members. He argued that this requirement would neutralize lucrative television markets as lures to teams, such as the Braves, which did not enjoy such markets.

The National Football League (NFL) solicited antitrust exemptions from Congress on two different occasions in the 1960s. In 1961, an interpretation of a 1953 federal court decision prevented the NFL from pooling the rights to its games and offering them for sale as a package to television networks as the rival American Football League (AFL) and other sports leagues had done. Rather than appeal the decision to a higher court, the NFL sought relief from Congress in the form of an antitrust exemption which would allow all sports leagues to package exclusively radio and television rights. The NFL argued that weaker clubs would not be able to attract television revenues, which would weaken them further, eventually endangering the sport due to the lack of competitive balance. This argument was accepted in both houses without argument. Within the relatively brief period of 72 days, Congress passed the Federal Sports Broadcasting Act granting, in effect, a league monopoly on broadcasting rights.

In 1966, the NFL again petitioned Congress for an antitrust exemption to allow a merger between itself and the rival AFL, thereby terminating the bidding war between the two leagues. The NFL used the same argument of financial necessity and potential doom to justify the proposed exemption. The opposition of Emmanuel Celler (D-N.Y.) in the House to the merger legislation was circumvented by attaching an exemption rider to an administration-sponsored investment credit bill. It was approved without debate in the Senate and over Celler's objection in the House and signed into law.

Table 3 reports an explosion of proposed sports legislation in the early 1970s. In 1971, the warring American and National Basketball Associations (ABA and NBA) approached Congress for an antitrust exemption to allow their proposed merger. The arguments of the basketball leagues were the same as those used by the NFL in 1966. In 1971, however, many members of Congress perceived professional sports differently. Exorbitant players' salaries and the announced departure of the Washington Senators from the nation's capital as the merger hearings opened encouraged a perception of sports as a business rather than merely a game. The testimony of economists refuting the leagues' economic arguments and the intense opposition of the basketball players' associations insured a different merger bill than that of 1966. The bill reported out of committee imposed well-defined conditions upon the merger which the NBA could not accept. However, no action was taken on the bill by Congress.

Sports broadcasting policies and other issues, however, replaced antitrust concerns as the dominant focus of Congress in the 1970s. A spate of bills designed to regulate different aspects of sports broadcasting policies was introduced between 1971 and 1973. These bills were a reaction to the excessive profits reported for closed-circuit telecast of the 1971 Ali-Frazier fight and the blackout of the 1971 and 1972 Super Bowls. When an NFL official took what Congress considered to be a "public-be-damned" attitude with regard to the blackout issue in 1973, temporary anti-black-

out legislation was adopted within a period of eight days, giving sports fans, especially football fans, greater access to sports contests.

Professional baseball's desertion of Washington, D.C. and its refusal to include the nation's capital in its expansion plans, combined with baseball's highly publicized labor problems, brought that sport under Congressional attack. League officials believe an angry Joel Broyhill (R-Va.) inspired a section of the 1976 Tax Reform Act which severely reduced tax benefits for club owners, thus making ownership of professional sports franchises less attractive. They and the media also speculated that the creation of the House Select Committee on Professional Sports was designed to force baseball back to Washington, although this allegation was denied by the committee's chairman. The select committee's comprehensive study of professional sports, begun in 1976, was doomed to remain unfinished when, due more to a general concern about select committees than the substance of the committee's work, the House, in 1977, refused to re-establish this particular committee. Nevertheless, Congress in the 1970s was more willing than before to enact legislation potentially injurious to the business interests of professional sports.

In retrospect, each new decade brought about an increased amount of sports legislation reflecting the growing interest in, and importance of, sports in American society. League-initiated requests for assistance and disruptions within Sportsworld encouraged Congressional intervention in professional sports. It is significant that the disruptions, symbolized by franchise moves as well as the league requests, have economic roots. This encouraged the perception of professional sports as big business. The growing evidence of sports' business interests overriding any deference to fan interest or the quality of the game promoted a greater resistance by Congress to grant professional sport demands without significant examination. Indeed, some proposed legislation was even punitive. This represented a complete reversal of the traditional view of sports held by legislators.

TWO VIEWS OF PROFESSIONAL SPORTS

It is possible to identify two distinct perceptions of professional sports within Congress during the time period under review. The first perception portrays an idyllic image of professional sports which does not question sport's positive value to society and the nation.[11] This perception of sports went virtually unchallenged within Congress until the mid-sixties. Although it continues to persist, the predominance of the idyllic image of sports has been challenged by a second perception which holds that professional sports are big business and in need of scrutiny, if not regulation.

The evolution of this alternative perspective includes: sports broadcasting policies and the franchise movements which discount public interest and fan support for larger profits; the increasing effectiveness of players' associations in presenting the labor side of the sports story; and rapidly escalating and highly publicized players' salaries. The consequences of this changed Congressional perception of pro-

11. This perception is not peculiar to Congress; see *Flood* v. *Kuhn* 407 U.S. 260–264 (1972).

fessional sports have been closer scrutiny and willingness to consider and enact legislation opposed by club owners. The evolution of this perception can be traced by a brief review of committee reports and floor debates.

The 1952 Report of Emmanuel Celler's Subcommittee on the Study of Monopoly Power dedicated nearly five pages to the role of baseball in American life. It concluded:

In many respects, professional baseball typifies the basic ideals of the American people. Fairness and clean competition are the passwords of the sport. It is the melting-pot of men of all races, religions and creeds.[12]

In 1953, Senator Edwin Johnson (D-Col.) suggested that baseball was "democracy in action." "If the free world and Iron Curtain countries could compete on the baseball diamond," he asserted, "plans for war would disappear from the face of the earth like an early-morning dew."[13] Later in the decade, baseball was saluted on several different occasions for its effectiveness in fighting juvenile delinquency and the cold war. Indeed, Senator Karl Mundt (R-S.D.) suggested that due to the national interest in these matters, baseball's antitrust exemption should be tied to maintaining a franchise in the nation's capital.[14]

During this time, any attempt to view sports as a "business" invited attack. In 1954, August Busch, owner of baseball's St. Louis Cardinals and producer of Budweiser Beer, announced intentions to telecast Cardinal games into minor league territory and to rename his stadium "Budweiser Stadium." Senator Johnson declared, "Baseball to August H. Busch is a cold-blooded beer-peddling business," and proposed that "Congress should treat his baseball enterprise in that light" by revoking the sport's antitrust exemption for any franchise owned by an individual or organization involved in the production or sale of alcoholic beverages.[15]

In the late 1960s, a number of Congressmen sponsored legislation which would have made $10 million worth of free tickets available each year for distribution to underprivileged youth. In support of the proposed legislation, which was intended to bring calm to the nation's inner cities, it was suggested that seeing sports stars in action possessed a therapeutic value.[16]

Although the franchise moves of the Brooklyn Dodgers and the New York Giants to the West coast in 1958 prompted discussions of the profit motive in sports, it was not until 1964 that a number of Congressmen adopted the view that professional sports was a profit-maximizing business operation. In July 1964, the Milwaukee Braves were rumored to be moving to Atlanta, despite financial success in Milwaukee. Senator William Proxmire charged that the move was motivated by the promise of a lucrative television contract.[17] Congressman Clement Zablocki (D-Wis.) later argued on the House floor that baseball should not claim exemption from antitrust law as a sport and then operate to maximize profits.[18] In August 1964, CBS purchased the New York Yankees.

12. *Organized Baseball*, p. 9.

13. 99 Cong. Rec. 2151 (20 March 1953).

14. 104 Cong. Rec. 14062 (7 July 1958).

15. 100 Cong. Rec. 7219 (23 February 1954).

16. 113 Cong. Rec. 19561 (20 July 1967) and 113 Cong. Rec. 21541 (7 August 1967).

17. 110 Cong. Rec. 17491 (1964).

18. 111 Cong. Rec. 1641 (1 February 1965).

This event raised even more questions about the business nature of professional sports.

The tension between the two images of sports heightened in the 1970s. In 1972, Senator Marlow Cook (R-Ken.) sponsored legislation to create a Federal Sports Commission in response to apparent turmoil in professional sports. The senator declared the right of sports fans to a stable sports system and stated that it was necessary to "preserve the system of sports which has provided many years of enjoyment and excitement for millions of American people."[19] He cited the "mass commercialization of sports" as the source of sports' problems.

Congressional concern for sports in the 1970s reached its zenith in 1976, as the House created a Select Committee on Professional Sports "to conduct an inquiry into the need for legislation with respect to professional sports."[20] The committee's chairman, B. F. Sisk (D-Cal.), opened the committee's activities by noting the importance of professional sports in the fabric of American life and the closeness of sports to the "hearts of all Americans." He asserted, however, that the root causes of the turmoil in the world of sports in 1976 were economic, and that the profit motive threatened the intrinsic value of athletic competition.[21]

In sum, the actions of professional sports entrepreneurs have been perceived by many in Congress to contradict the idyllic image of professional sports. Although the business image of sports may be dominant in Congress today, the behavioral consequences of that image are softened by the persistence of a romantic image of professional sports and the political strength of the league administrators and club owners.

THE POLITICS OF PROFESSIONAL SPORTS AND THE PUBLIC INTEREST

During the 1950s and early 1960s, club owners were the only organized faction in professional sports. Although this group could not guarantee Congressional or judicial acquiescence to league demands, the club owners did dominate the politics of professional sports. This political imbalance was modified to a degree by the firm establishment of strong players' associations.[22] Although the players' associations today may be able to block legislation which they feel is harmful to their interests, such as the basketball merger in 1971–72, and may be able to instigate Congressional investigation, such as the 1975 oversight hearings focusing on labor relations in the NFL, they still cannot match the owners' lobbying power.

The owners' political power stems from the "social clout" of owning a professional sports team, the campaign contributions which they are capable of making, and their ability to award much-sought-after franchises to "deserving" cities. It has

19. "Federal Sports Act of 1972," Hearings on S.3445 before the Senate Committee on Commerce, 92nd Congress, 2nd Session (1972), pp. 102.

20. H. Res. 1186.

21. "Inquiry Into Professional Sports," Hearings before the House Select Committee on Professional Sports, 94th Congress, 2nd Session (1976), pp. 2–3.

22. For a brief history of the baseball players' association and collective bargaining, see Mark Goldstein, "Arbitration of Grievance and Salary Disputes in Professional Baseball: Evolution of a System of Private Law," *Cornell Law Review* 60 (1975): 1049–1074.

been charged that this last source of power is used to reward members of Congress for cooperation on crucial legislative issues. The two most frequently cited examples relate to the NFL.

Congressional support for the NFL merger legislation in 1966 partly was premised upon an expectation that league expansion would occur within a year. The architects of the legislative strategy to circumvent Emmanuel Celler's opposition to the merger in the House were Senator Russell Long (D-La.) and Representative Hale Boggs (D-La.), both of Louisiana. Shortly after the adoption of the merger bill, New Orleans was awarded an NFL franchise.

More striking is the fate of the 1975 antiblackout legislation. The House and Senate approved different versions of an antiblackout bill in 1975 to succeed 1973 legislation scheduled to expire in 1976. After arduous negotiation, agreement on permanent legislation was reached within conference committee, and the committee's report was signed by the conferees. It was agreed, however, that Senate action, required before the House could act, would await the Third Annual Federal Communications Commission (FCC) Report on the effect of the sports antiblackout law. If the FCC had found that substantial harm had been done to NFL clubs, the conference committee would have reconsidered the legislation. Even though no such finding was reported, the Senate conferees, led by Washington Senator Warren Magnuson (D-Wash.), failed to file the signed conference committee report. No explanation was given to the incredulous and angry House conferees. Shortly thereafter, Seattle was granted an NFL franchise.

These and other examples may be coincidences, but Congressman Lionel Van Deerling (D-Cal.) suggests otherwise. He charged on the House floor that the sports leagues have enjoyed success in Congress due to "reluctance of many Congressmen to risk antagonizing club owners in their cities" for fear of franchise moves.[23] If this is the case, the public appears to be unrepresented.[24]

Thus, the public has not been, nor is likely to be, represented in an organized manner by a group with power comparable to that of the leagues or even that of the players' associations. Players' interests often coincide with those of the owners, as opposed to those of the public.[25] When this is the case, players' representatives will either testify with the owners, as was the case in hearings held in Miami in 1978 on the effects of antiblackout legislation, or will be silent, as was the case in 1978 when the Ways and Means Committee considered and rejected the administration's tax proposal to disallow the purchase price of (season) tickets as a business tax deduction for entertainment activities. In such cases, it appears that the public is without a voice in the policymaking process of professional sports.

23. 117 Cong. Rec. 33407 (27 September 1971).

24. In September 1977, Ralph Nader announced the creation of "Fight to Advance the Nation's Sports" (FANS) to protect the interests of the sports fans and taxpayer. A year later FANS had not achieved its membership goals and was having financial difficulty. The organization, a victim of the free-rider problem as much as a poor reception by the media, owners and players, disbanded in the fall of 1978.

25. However, players' representatives assert that there is a mutuality of interests between athletes and the public in opposing the monopolistic position of club owners.

A public right to access

Certain sports issues, however, can become appealing political issues to members of Congress; when this occurs, the public's interests will be represented. Such was the case in 1973 when a temporary antiblackout law was enacted amidst considerable public criticism of the NFL blackout policy. In the eyes of one NFL official, voting for a bill which "gave away someone else's product at no cost to himself or the government" was politically irresistible to most Congressmen. The record suggests, however, that Congress has consistently supported the public right to access to sports contests and, in the 1970s, has demonstrated a willingness to insure that right. For example, as early as 1952, interest was shown in the physical distribution of baseball franchises. Celler's 1952 subcommittee report noted that no change in the distribution of baseball franchises had occurred since 1903. The subcommittee expressed concern that population centers such as Los Angeles, San Francisco-Oakland, Baltimore, Minneapolis-St. Paul and Buffalo were without professional baseball.[26]

In July 1959, partly as a result of the desertion of New York City by the Dodgers and Giants, the formation of a new baseball league was announced. Almost immediately, legislation designed to facilitate the new league's development was introduced. When the legislation reached the Senate floor in 1960, one concern in the ensuing debate was the geographical location of franchises. Supporters argued that a new league "would permit the people to see real major league teams personally, rather than by television."[27] The bill did not pass, and franchise location remained an issue, even though expansion did occur in professional baseball.

In the 1970s, as concern over professional sports practices increased, a public right to access has been articulated forcefully by Congress in addressing the issue of sports broadcasting policies. The issue of sports broadcasting policies, especially blackouts, is not new. As early as 1953, Congress refused to consider legislation designed to permit blackouts of professional games in minor league territories. In 1963, Congressman Frank Stubblefield (D-Ken.), attacking NFL blackout policy, asserted the right of the public "to enjoy the fullest practical dissemination of the interstate telecasts of professional sports events."[28] Two years later, during debate on sports antitrust legislation in the Senate, it was argued that the use of public facilities to stage sports events and the use of the airwaves in telecasting those events placed sports in the public domain.[29]

However, it was not until 1971, amidst controversies over the Ali-Frazier fight broadcast, that this policy rationale was asserted strongly by many. Congressman Charles Sandman, Jr. (R-N.J.) proposed that Congress "declare that certain major sporting events must be made available to be broadcast publicly" so that the poor might have access to them.[30] Congressman Les Aspin (D-Wis.), in support of similar legislation insisted:

> It would be the height of irony if sports fans were further excluded from

26. *Organized Baseball*, p. 190.

27. 106 Cong. Rec. 14729 (28 June 1960).
28. 109 Cong. Rec. 12135 (2 July 1963).
29. 111 Cong. Rec. 22320-21 (31 August 1965).
30. 117 Cong. Rec. 5893 (10 March 1971).

viewing their teams while, at the same time, their tax money was going for the construction and maintenance of bigger and more modern stadiums for their teams to play in.[31]

A month later, Senator Proxmire outlined the justification for ending NFL blackouts. He argued that an antiblackout law was justified, in part, by the facts that citizens are unable to purchase tickets to sports events held in publicly funded stadiums and that the NFL is reaping economic benefits from the use of publicly owned airwaves.[32] Senate and House committees reporting antiblackout legislation recognized a public right to access based upon this rationale in 1973 and 1975. Members of both Houses concurred as they approved, with virtually no opposition, antiblackout legislation in both years. The right to view sports events continued to be asserted and justified in these terms in the 95th Congress, as Congressmen sought to end sports blackouts and to prevent usurpation of sports broadcasts by cable and pay cable television.[33]

In sum, Congress consistently has been concerned with public access to sports events, and today seeks to insure access by regulating sports broadcast policies. Attempts to guarantee access are justified by the use of public facilities to stage sports events and the use of commercial television to display those events and increase revenues. It is interesting to note that there has been no attempt to guarantee access by controlling ticket prices for sports contests. In the future, the issue of access is most likely to be fought in debates on copyright protection and control of cable and pay cable television.

CONCLUSION

The nation's sports fans and public in general are unaware of the degree to which government and sports interact. Analysis of the government-professional sports relationship belies the belief that the two are independent of one another. Congress is one institution of government which has been important in the making of public sports policy. As is generally the case with modern legislatures, however, the time and attention given to professional sports in committee deliberations and floor debates have been translated into relatively few pieces of legislation.

Congressional interest in professional sports has been stimulated by the sports leagues, often in reaction to, or in anticipation of, federal court decisions and events in Sportsworld which at times have affected specific Congressional constituencies. Congressional activity has taken place within an attitudinal milieu generally favorable to professional sports. Thus, for policymaking purposes, the sports leagues have attempted to avoid bureaucratic and judicial arenas in favor of the Congressional arena. Athletes, on the other hand, seek out the judicial and bureaucratic arenas for support.

Since the mid-1960s, however, Congressional perceptions of professional sports have changed and, on occasion, Congress has enacted legislation opposed by the leagues. Nevertheless, the political power of

31. 117 Cong. Rec. 7054 (18 March 1971).

32. 117 Cong. Rec. 10319 (14 April 1971); see the NFL response to the blackout issue, 117 Cong. Rec 46042-44 (10 December 1971).

33. See, for example, S2954 and supporting remarks at 124 Cong. Rec. 55951 (19 April 1978); and S. Res. 181 and supporting remarks at 123 Cong. Rec. 58830 (27 May 1977).

club owners, combined with the persistence of the idyllic image of sports within Congress, makes such instances rare or dependent upon extraordinary circumstances.

At no time have professional sports been assured of passage of league-sponsored legislation. The failure to adopt a sports antitrust bill in the 1950s and 1960s, despite favorable committee reports, exemplifies this lack of assurance. This was a result of a combination of factors, including the leagues' failure to cooperate fully, the complexity of the issues being considered, and the determined opposition of key Congressmen who wished to take strong stands on antitrust issues.

The general public appears to be without effective representation when Congress considers matters related to professional sport, with the exception of public viewing rights. However, due to the great amount of interest in professional sports in America, Congress has developed a logic designed to be protective of the public's right to view sports. The public policy rationale for a right to access is dependent upon the revenue producing usage of public facilities and resources by sports teams and the belief that Congressionally granted antitrust exemptions have allowed professional sports clubs to reap large profits.[34] Due to the relatively new perception of professional sports as big business, Congress appears to be ready to demand a formal quid pro quo.

The professional sports industry is the only American industry which enjoys antitrust exemptions without related oversight. Although there have been threats to impose formal government regulations upon professional sports, such is unlikely due to general public opposition, the durability of the idyllic view of sports in Congress, and the political power of club owners and league administrators. It may be ironic, but not surprising, that if government regulation of sports is forthcoming, it probably will be imposed in the name of the opponent to government regulation of sports—the sports fan.

34. It is beyond the scope of this essay to provide a comprehensive analysis of the public nature of professional sports. A case may be made, however, to support the position that professional sports are colored by state action and therefore subject to valid governmental intervention. For the beginnings of such an argument, see "Discipline in Professional Sports: The Need for Player Protection," *The Georgetown Law Journal* 60 (1972): 771–798 and Paul E. Kritzer, "Copyright Protection for Sports Broadcasts and the Public's Right of Access," *Idea* 15 (1971): 385–404.

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Sport Within the Veil: The Triumphs, Tragedies and Challenges of Afro-American Involvement

By HARRY EDWARDS

ABSTRACT: American's traditional relegation of sport to the "toy department" of human affairs conceals both its significance as an institution and the seriousness of its impact upon social relations and development. Nowhere is the validity of this assessment more evident than in the situation confronting Afro-Americans. Here, sport is revealed to be neither "fun-and-games," a citadel of interracial brotherhood and harmony, nor blacks' passport to the "good life." Rather, for blacks, it emerges as a fog-shrouded, institutional minefield, even further obscured by naivete, ignorance, and decades of selectively accumulated myth. In reality, sport not only exhibits the same structure and ideological rationalizations of human relations as exist in the larger society, but it plays a fundamental role in sustaining the character of those relations. Only through a thorough understanding of the functions of sport as an institution and the dynamics of its disproportionately powerful influence upon Afro-American life can black people ever hope to extricate themselves from what can only be termed a political and cultural tragedy.

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SINCE 1947 and Jackie Robinson's turbulent initiation into major league baseball, black American athletes, by every measure, have dominated all sports to which they have had access in numbers. In the short span of just three decades, they have established a record of athletic performance so demonstrably superior that it borders upon the incredible. Even more astounding is the fact that they have registered these brilliant accomplishments while struggling against the pervasive influences of both institutionalized racism and individual bigotry within the American sports system. Further, the intricate complexities and implications of blacks' minority status, given the character and functions of sport as an institution, add yet another dimension to the array of awesome challenges confronting Afro-Americans.

Needless to say, their skills and talents notwithstanding, blacks were not exactly welcomed with open arms into sport's mainstream. As late as 1957, ten years after Robinson's debut, there were still only eighteen blacks in all of professional baseball. But then, it was not until 1955 that blacks achieved proportionate representation in any sport—much less the Great American Pasttime. And to this day, even in sports where they have dominated as athletes, one finds the number of blacks in both the front office and on-the-field leadership in decisionmaking and authority positions to be either disproportionately low or nonexistent. Indeed, to no small degree, blacks' highly visible accomplishments as athletes in four or five sports have served to veil the more unsavory realities of their sports involvement and to obscure the fact that virtually all other American sports remain largely segregated and lily white.

Upon analysis, American sport is revealed to be more a treadmill than the fabled escalator providing escape from the deprivations afflicting the black community. And because of its interdependence with other institutional structures and social processes in America, sport constitutes not only a treadmill for the overwhelming majority of aspiring black athletes, but also a cruel and wickedly subtle trap, ensnaring the whole of black culture and society. Thus, the persistence and calculated perpetuation of the belief that sport offers blacks extraordinarily unique opportunities for advancement amounts not to mere naivete, but to inhuman mockery. In short, the historical and continuing character of black America's relationship with sport precisely demonstrates that ". . . when you believe in things you don't understand, you suffer. . . ."

IDEOLOGY AND DOMINANT-MINORITY RELATIONS IN SPORT

The fact of minority status itself generates additional problems for blacks in sport for the values reinforced by sport are inevitably those of the dominant group. In the United States, this means that the value emphasis in sport is oriented to the ideological interests of middle- and upper-class white males who dominate fandom as well as every instrumental sphere of American life. It therefore becomes advantageous to maintain a substantial white male presence in sport, particularly in positions of leadership and authority, if sport is to optimally fulfill its functions of reinforcing and reaf-

firming established structural and ideological relationships.

Consistent with this fact, positions such as quarter-back and middle-linebacker in football, catcher in baseball, head coach, manager and owner in all sports and, most particularly, sports media positions, are largely ones to which "only white males need apply." Where the structure of a sport is not conducive to the positional segregation of whites and blacks, the number of blacks allowed to participate at any one time traditionally has been limited. So, according to Bill Russell, former professional basketball great, there was long a practice in basketball at every level of playing "two blacks at home, three on the road and five when you get behind."[1]

Despite such tendencies, by 1979 more than 75 percent of all professional basketball players in America were black. This does not necessarily reflect either a contradiction relative to the discussion above or evidence of any substantial liberalization of racial sentiments within professional basketball. Other considerations appear to be more likely explanations.

First, in all of professional basketball there were less than 300 players as late as 1979. Given the tremendous emphasis placed upon basketball in the black community (resulting from a complex combination of role model visibility, opportunity and urban environment) and the fact that disproportionately high numbers of athletically talented blacks are channeled into sport generally, the pressures upon white owners to sign highly publicized, superior black players rather than merely good or excellent white players had to be overwhelming. And, of course, the more that superior black professional athletes dominated the sport numerically and athletically, the more their perspectives had to be recognized and accommodated, particularly with regard to personnel policies. No team owner could long maintain the respect of his black players if they thought that he deliberately and persistently passed over superior black athletes in order to sustain a white numerical dominance on the team—especially if it meant drafting less able white athletes. Once any owner in a league begins to sign the best players, regardless of race, then the entire league must follow suit or suffer a strategic and unsurmountable personnel disadvantage.

This does not totally exclude the signing of good-to-excellent white players or even an occasional mediocre White Hope over available superior black players. In fact, there is some basis for the speculation that if all of the athlete positions in the National Basketball Associations were filled by blacks, the overwhelming majority of superior basketball players—particularly those with only limited college experience and public notoriety—would still be excluded from the professional ranks.[2] So, the presence of any substantial number of white players at all in the professional basketball ranks must be considered, at a minimum, rather curious.

The increasing domination of basketball by blacks has led some to conclude that the collapse of the game—particularly at the profes-

1. Harry Edwards, *The Sociology of Sport* (Homewood, IL: Dorsey Press, 1973), p. 213.

2. Peter Axthelm, *The City Game* (New York: Harper and Row, 1970) for a thorough presentation of how the urban environment influences the development of black basketball talent and an assessment of basketball skill among "street blacks."

sional level—is inevitable, as whites find identification with overwhelmingly or totally black teams very awkward.

Similarly, it has frequently been speculated that it is only the personal charisma of Muhammad Ali that has sustained widespread public interest in minority dominated boxing. Certainly, with the exception of Ali's matches, there has been little network television interest in the sport comparable to that evidenced in the early 1950s when whites still maintained substantial credibility as boxers. Does this reflect conscious racism or institutional imperatives related to the functions of sport in society? This question contains the core issue of what inevitably will become the black athletic crisis of the 1980s. It may just be that white owners and management will feel compelled to institute some form of official or, more likely, unofficial "affirmative action" program for white athletes and justify it as an attempt to save their sports. And, as we will see later, there is also a great potential for the emergence of other more general, society-wide pressures toward limiting black involvement in sport while guaranteeing some minimal level of white participation.

Racist Manipulation or Institutional Inevitability: The Issue of Social Control

One of the most difficult tasks in analyzing American sport is that of disentangling patterns of consiously sustained racist practices from more non-deliberate, largely unavoidable institutional features reflecting sport's social functions and its structural and ideological interdependence with society. From the perspective of Afro-American interests, the importance of sharp distinctions in this regard cannot be overstated. Both the development of effective strategies for neutralizing racism in sport and the implementation of programatically intelligent approaches to overcoming the tragically disproportionate influence of sport in black culture are at stake here. The debate over sport's role as a "social control" mechanism employed by white society to perpetuate its domination over black society keenly illustrates the point.

Due to the singular visibility of black athlete role models, disproportionately high numbers of black youth are channeled into athletic career aspirations. This process is reinforced by the limited numbers and the lower overall visibility of black success models in other high-prestige occupational categories. This channeling process tragically leads millions of blacks to pursue a goal that is foredoomed to elude all but an insignificant few. For there are less than two thousand blacks in all of professional sport.

The impact of what would otherwise be personal career tragedies reverberates throughout black society both because of the tremendous proportions of black youth channeled into sport and the fact that serious sports involvement often dictates neglect of other important spheres of development. Further, the skills cultivated through sport are utterly worthless beyond the sport realm, unlike the skills one would develop while pursuing a career in, say, medicine, politics, education or any one of a multitude of other areas. For example, a person who starts out to become a doctor of medicine may become a nurse or medical technician instead if circumstances compel abandonment of the original goal. Similarly, someone who aspires to teach college may have to settle

for teaching high school if the Ph.D. proves beyond reach.

But what is the fall-back position of those blacks who have dedicated their lives to achievement of a professional sports career? Where do they apply their dribbling, passing, running, and tackling skills once the professional sports career eludes them? Therefore, not only are millions of black America's most aspirant and competitive young people systematically channeled onto a treadmill, but black society is denied the benefits of vital black skills development and, eventually, burdened with additional under-contributors, noncontributors or mal-contributors.

And, of course, the rare black athlete who does succeed, who is aware, and who has the interest of the black community at heart is compelled to take an explicit position against the prevailing emphasis upon sport in black society—an extremely awkward stand for him at best. He runs a tremendous risk—particularly in the eyes of a naive public—of appearing not only ungrateful and arrogant, but presumptuous; that is, "I made it in sport, but most of you are wasting your time." His alternative is to be transformed through impersonal institutional processes and, to some extent, by orchestrated design into a "Judas Goat" who, by virtue of his very success and visibility, perpetuates the tragedy which finds millions of black youth misled into the futile pursuit of sports careers.

A second critical concern in the "social control" issue is the extent to which it is merely coincidental that this tragic situation also results in the elimination of substantial numbers of blacks from even entertaining serious aspirations of entering into competition with whites for more instrumental, high-prestige occupational positions outside of sport. That is, to the extent that sport is disproportionately influential in black society relative to other potential occupational spheres, there logically would be a less-than-representative number of blacks even aspiring to careers in those alternative spheres.

Finally, there is the question of sport's role in the ideological indoctrination of the black masses. Because sport reflects and reinforces dominant society's prevailing ideological definitions, the athletic accomplishments of blacks are widely construed as confirmation that "the system works for all its citizens." Black athletic achievement is portrayed as "proof positive" that if the masses of blacks are competitive, disciplined, hardworking, patriotic, love America and believe in God, they, too, can realize the "American Dream."

Such a portrayal accomplishes two things. First, it reinforces the notion that blacks abide in disproportionately high numbers in the lower echelons of American society owing to no cause other than their own inadequacies and race-linked competitive limitations. Secondly, it contributes toward significantly undermining or precluding serious consideration, much less adoption, of alternative ideological frameworks by any substantial number of blacks. It strengthens the legitimacy of ideological definitions that have historically proven ineffective in the resolution of vitally critical problems confronting black society. These definitions simply do not address, provide solutions for, or even admit to the systematic maintenance of the central reality of black life in America—virulent white racism.

Sport within the veil

The mythical quality of dominant group portrayals of black sport realities is revealed to most blacks from their first serious involvement in organized athletics. That blacks would persist in sport in disproportionately high numbers despite the racist and institutional contradictions they encounter is not only a measure of black fortitude and tenacity, but of sport's powerful appeal in black society. Sadly, it also reflects disproportionately low black access to alternative high-prestige occupational and self-fulfillment opportunities due to both historical and contemporary racist practices.

Martin Kane concludes his 1971 *Sports Illustrated* article, "An Assessment of Black is Best," with a still-widespread American myth:

> Every Black male child, however he might be *discouraged* from a career with a Wall Street brokerage firm or other occupational choices, knows he has a *sporting chance* in baseball, basketball, football, boxing, or track. The Black youngster has something real to aspire to when he picks up a bat or dribbles a ball. . . .[3] (emphasis those of this author).

What is considered a sporting chance for America's black youth.

High school sport

Serious involvement in sport by blacks typically begins with organized high school athletics. It is at this level that competition begins for the first major rewards of sports participation—a collegiate athletic scholarship and the opportunity to achieve a college education. For the black athlete, high school is also where the myths begin to unravel.

The black athlete finds, first of all, as have N. R. Yetman, D. S. Eitzen,[4] Charles Tolbert, II[5] and other social scientists, that unless they are "All-State," "blue-chip," All-American" or otherwise certified as superior athletes, their chances of receiving an athletic scholarship are substantially lower than those of whites with comparable abilities. In fact, despite their skills and talents, black athletes, according to a 1968 H.E.W. survey of some fifty-nine colleges, received only 6 percent of the college athletic scholarships—634 out of 10,698 granted.[6] By the mid-1970s, whites were still receiving slightly more than 94 percent of all collegiate athletic support.

These statistics reveal some interesting points. First of all, they demonstrate society's priorities relative to blacks; they also point up the fact that blacks have not succeeded in effectively challenging those priorities. When at this late date, Afro-Americans constitute only 1½ percent of college enrollments, but account for 6 percent of the athletic scholarships granted, our youth are still being attracted in disproportionately high numbers to the locker-

3. Martin Kane, "An Assessment of Black Is Best," in *Sports Illustrated*, Vol. 34, No. 3, (June 1971), pp. 72–83; for a rebuttal to Kane, see Harry Edwards, "Racism: A Prime Factor in the Determination of Black Athlete Superiority," presented at the Twenty-fifth Annual Meetings of the American Sociological Association, 1973; see also, Harry Edwards, "The Myth of the Racially Superior Athlete," *Intellectual Digest*, Vol 3, No. 3 (March 1972), pp. 56–58.

4. N. R. Yetman and D. S. Eitzen, "Black Americans in Sport: Unequal Opportunity for Equal Ability," *Civil Rights Digest*, Vol 5, No. 2 (1973), pp. 20–34.

5. Charles M. Tolbert, "The Black Athlete in the Southwest Conference: A Study of Institutionalized Racism," Unpublished Doctoral dissertation, 1975, cited in J. J. Coakley, *Sport in Society* (St. Louis: The C. V. Mosby Co., 1978), p. 291.

6. Jay J. Coakley, *Sport in Society* (St. Louis: The C. V. Mosby Co., 1978), p. 277.

room rather than to the library. From the perspective of dominant white America, it appears that the principal calling of blacks in this society is that of "Twentieth Century Gladiators," not doctors, lawyers, educators, and so forth. In other words, if you are black and can play some ball, your chances are infinitely greater of gaining access to a college education than if you have only limited athletic ability, but have the potential for a significant intellectual contribution to society.

Secondly, despite sports' fabled reputation as a "mobility ladder" for blacks, these statistics show that they do not even receive athletic scholarships proportionate to their numbers in the general population. And with college education becoming more expensive, with diminishing athletic budgets relative to costs, and with inflation, it appears that blacks may lose even more ground in the struggle for athletic scholarships. Further, National Collegiate Athletic Association rules limiting the number of scholarships awarded have forced some colleges to give greater consideration to the factor of "academic risk." Some schools have already begun to use this rule as a rationalization for reducing the number of scholarships they award to blacks out of high school. Even more so than in the past, the black athlete is going to be attending junior college rather than being awarded the four-year college athletic scholarship. After having proven himself athletically and academically at the junior college, he will again become available to the four-year schools. By this time, of course, he will have developed into a superior product obtainable at the cheaper price of only a two-year athletic scholarship (technically granted on a year-to-year basis). In some collegiate athletic circles, such recruitment of black athletes out of junior colleges (many of which have standing arrangements with four-year schools) is called, appropriately, "the slave trade."

College sport

Once he secures his athletic scholarship, the black athlete's problems multiply rapidly. He is frequently confronted with "stacking" or positional segregation, wherein some on-the-field positions, particularly those presumed to carry greater leadership, decisionmaking, and general intellectual responsibilities, are reserved for whites.[7] Thus, many blacks who played quarterback in high school have had to adjust to playing "black positions"—perhaps defensive back or running back—if they were to make a team at all.

The recent increase in black "quarterbacks" in collegiate sport does not stand in contradiction to this statement; to the contrary, it tends toward its verification. Black quarterbacks did not achieve numerical prominence at predominantly white colleges until offenses were devised which expanded tremendously the quarterback run option. So the black quarterback, under most circumstances, is not a quarterback in the traditional sense, but a running back, as is revealed by many individual rushing statistics.

While space considerations will not permit analysis of black experiences in other sports, it should be stated that positional segregation by race exists in every sport

7. See John W. Loy and J. R. McElvogue, "Racial Discrimination in American Sport," *International Review of Sport Sociology*, Vol 1, No. 5, (1970), pp. 5–23, see also H. Edwards, *The Sociology of Sport*, pp. 205–212.

in which blacks participate in numbers, with the exception of basketball, for reasons mentioned above. Sports other than these are, for the most part, totally segregated, and award no scholarships to blacks at all (for example, tennis, golf, diving, skiing, water polo, wrestling).

The black collegiate athlete also has his problems with the sports media. Not only is he less likely than whites having comparable athletic performances to achieve media recognition, but the attention he does receive is more likely to be negative. In a 1977 study, one researcher established that *blind people* could determine whether an athlete was black or white by the tone and character of sports commentators' remarks; the more negative the comment, the greater the likelihood that the athlete in question would be black. Further, the most telling fact was that performance had little bearing on sportscaster comments. Even when blacks made outstanding or spectacular plays, they received disproportionately negative commentary. Conversely, regardless of the caliber of white performances, the sportscasters were much less critical.

Classroom problems also plague the black collegiate athlete. Owing to inadequate academic preparation, a substantial white middle-class cultural bias in American education, calculated inadequacies in acedemic counseling and a substantial lack of academic emphasis in athletic departments beyond that necessary to ensure sports eligibility, the overwhelming majority of black athletes never graduate from college. What is even more revealing is that they tend to major in physical education, usually at the behest and with the counseling of their coaches. There is an acute potential for conflict of interest here, since the coach must also maintain a principle concern for protecting the college's financial investment by keeping athletes eligible. One study indicated that at the University of Illinois, 66 percent of the black athletes majored in physical education; but 65 percent failed to graduate.[8] Similarly, C. M. Tolbert found that in the Southwestern Conference, over half of the black athletes majored in physical education, as compared to only one-quarter of the white athletes. Even more significant, over 75 percent of the white athletes in that Conference graduated, as opposed to less than a third of the black athletes.[9]

The point is brought home poignantly by the fact that not one of the starting five black basketball players from the 1965 University of Texas, El Paso, NCAA championship team graduated from college. All of the starting five white players for the defeated University of Kentucky graduated on schedule—three with honors. In the past decade and a half, not much has changed. We can therefore expect more legal suits, such as that filed by eight black athletes against California State University at Los Angeles, charging "fraud and deceit" in the operation of their athletic program. But, if an athletic scholarship and a "free education" do little to either promote black socioeconomic mobility or to substantiate the validity of other dominant group myths concerning the Afro-American experience in sport, the realities confront-

8. See D. Spivey and T. A. Jones, "Intercollegiate Athletic Servitude: A Case Study of Black Illinois Student Athletes," in *Social Science Quarterly*, Vol 54, No. 4 (1975), pp. 939–947.

9. See C. M. Tolbert, "The Black Athlete," p. 291.

ing blacks in the professional ranks are shattering.

Professional sport

As is true on the collegiate level, if blacks are to participate in professional sports, their greatest opportunities lie in baseball, football and basketball. But how great are the opportunities? As of 1979, there were 1,144 professional football players, of which 39 percent were black. Of 286 professional basketball players in 1979, 75 percent were black. And, in 1979, 280 or just under half of the 600 professional baseball players were black.

Despite the "superstar" status and extremely high visibility of the professional athlete, these figures indicate that there are fewer than *900* blacks making a living in the three major professional sports. Further, as J. J. Coakley observes, "if this number is added to all the black professional athletes in other sports, plus all the black coaches and trainers in professional sport, plus baseball players and semiprofessional football players, the total comes to slightly more than fifteen hundred people![10] So, while black athletes are represented in disproportionately high numbers in professional sport percentage-wise, the absolute number of opportunities available relative to the number of aspirants is infinitesimal.

The black professional athletes do not earn as much money as the white athlete of comparable skill. Not only does the black professional "sign cheaper" initially, but:

(1) he tends to play positions in some sports which subject him to disproportionately high injury rates. In football, for example, the average career is four and a half years. Running backs, wide receivers, and defensive backs —"black positions"—rarely last more than three years;
(2) he fails more frequently than his white counterpart to meet requirements for post-career pension benefits. This is largely due to higher injury rates and generally shorter longevity in professional sports;
(3) he seldom gets the secondary benefits of a sports career; for example, advertising contracts, coaching, managing, sports media, or front-office jobs after retirement from active participation.

Perhaps the final insult is that the black athlete is much less likely than the white athlete of comparable skill to receive Hall of Fame recognition after his career. If he does, it is likely to be much longer in coming. Typical of the treatment of blacks within this context was that accorded blacks who were kept out of major league baseball through racist Jim Crow practices. Because they were forced to participate in "all-Negro leagues," officials of the Baseball Hall of Fame continued the Jim Crow system by establishing a special section for the enshrinement of black stars from this era, despite the fact that Negro League All-Stars won the majority of the games they played against white major league all-stars. Of course, white players from that era are accorded no such special Hall of Fame consideration, just as quarterbacks, coaches, managers, catchers, and others filling "white-only" positions in modern sport are not penalized where honors are concerned because they never competed with blacks for their jobs or against blacks holding those positions.

10. J. J. Coakley, *Sport in Society*, p. 295.

BLACKS IN AMERICAN SPORT: FUTURE CHALLENGES AND PROSPECTS

To acknowledge or even analytically establish the facts of the black sports nightmare is one thing; to arrive at effective resolution of the situation is quite another. The first step toward accomplishment of the latter is to clearly distinguish the various aspects of the problem. Any strategy devised must be based first upon an accurate assessment of the character of the problems involved.

There must be a clear delineation of those problems that stem primarily from the conscious racist manipulation of the situation. These would constitute "short-term" problems and, relatively speaking, are more readily vulnerable to solution purely within the sport context. This category of problems is epitomized by Minnesota Twins' owner Calvin Griffith's September 1978, statement that:

> I moved my old Washington Senators baseball team to Minnesota when I found out you people here had only 15,000 Blacks in the State. Black people don't go to ball games, but they fill up a rassling ring and put up such a chant it will scare you to death. We came here because you've got good, hardworking white people here.[11]

Similarly, the tack of paying black athletes less than whites of comparable ability behind the shield of a few highly paid, highly publicized black super-stars is a racist practice that is quite vulnerable to a short-term strategy of resolution. This also true of some of the practices involving short-changing black athletes educationally and in terms of coaching, management, and sports media opportunities.

The success of efforts to eliminate or neutralize deliberate racist manipulations in sport will ultimately depend upon a combination of pressure from the Afro-American community and increasing the extent to which whites who control sport define it to be in their interest to behave in a non-racist fashion. This would mean organizing black communities nationwide and the encouragement of black athletes at every level to take organized stands, with active moral, economic, and political support of the black community, against these conditions.

Difficult as it may be to rectify these problems, conditions resulting from the functioning of sport as an institutional component of American society pose even more monumental problems. For it is, in the final analysis, impossible for a racist society to have a sports institution that does not recapitulate and compound the racist oppression of minorities. This means that all efforts to combat deliberate racist exploitation in sport can only be short-term, unless blacks are able to neutralize the institutionalized circumstances making sport amenable to racist manipulation.

It is this fact that is at the very core of the problem posed by the disproportionate channeling of blacks toward career aspirations in sport, with all of its tragic implications and results. Ultimately, blacks must struggle to alter the character of American society as a whole—certainly a long-term challenge at best. In the interim, black society must begin to devise intelligent, programmatic approaches to neutralizing some of the influence of sport upon black youth. Black athletes at all levels, educators, com-

11. See "Carew: I Will Not Play for Bigot Griffith."

munity leaders, groups and organizations and, not least of all, the black family must be organized to systematically attack this problem while simultaneously re-emphasizing the critical need for intellectual and technical skills development among black youth. Concomitantly, Afro-Americans must re-double their efforts to expand educational and alternative occupational opportunities, particularly in the wake of increasing white assaults on civil rights gains, the Bakke-type judicial decisions, the general collapse of the "Second Reconstruction," and the fact that dominant American society appears to be "turning right" and "heading south" in social philosophy and political policy.

One approach to the problem can be dismissed from the outset. Blacks should not drop out of sport participation or attempt to artificially limit or roll back the black presence in the sport realm. It is as legitimate for blacks to be involved in sport as in law, engineering, education, or any other field. Secondly, the problem confronting blacks is not disproportionately high representation in sport per se, but rather the circumstances generating that disproportionality and its implications. If blacks dropped out of sport or even if they only limited their presence there, it would contribute in no way toward opening up alternative occupational choices. And while it might be argued that such action would contribute toward reducing sport's influence in black society, a much more effective, rational and constructive means of accomplishing this end would be for blacks to deal with sport more intelligently and as the essentially political phenomenon that it is.

In the not-too-distant future, our problem in sport may be quite the opposite from overrepresentatior that is, it may be one of maintair ing mere proportionate presence, a indicated in our discussion on th developing crisis in professiona basketball. The situation of di minishing collegiate athletic schol arship awards to blacks was men tioned above. With fewer blac athletes on predominantly white cam puses, the assistant black coache hired following the black athleti revolts of the late 1960s are nc likely to be retained in the sam numbers. The justification for nc hiring black head coaches durin this period was that they would nc be able to exercise effective leadeı ship and control over a predomi nantly white sports organization With fewer black athletes around black assistant coaches also becom expendable because their primar responsibilities from the outset hav been largely to "cool out" problem atic situations involving black ath letes.

Few of these coaches will hav anywhere to turn in search of nev coaching positions. Because of inte gration, more than 2,000 blacl coaches lost their jobs at formerl all-black schools between 1954 an 1971, and for the reason just men tioned, few found jobs as coaches a predominantly white schools. And recall the overwhelming majority o black athletes majoring in physica education, so that even the few wh graduate encounter tremendous dif ficulty finding jobs as coaches. Thi situation, thus, can only deteriorat further, particularly when combine with the impact of a lax economy an the tax revolt. With athletic program being eliminated at every educa tional level, the white pressure oı all remaining jobs will be eveı greater.

There is also evidence that blac

numbers in the professional sports ranks are beginning to decline. For example, the number of blacks in minor league baseball has declined by more than one-third between 1974 and 1977. Even the numbers of blacks in major league professional baseball has trailed off.[12] A survey of the pattern of decline gives at least some reason to doubt the notion that this is occurring because blacks are finding other professional sports more attractive (see Table 1).

TABLE 1

PERCENTAGE OF BLACKS IN BASEBALL BY POSITION AND YEAR

POSITION	1960	1968	1977
Pitcher	3	9	5
Catcher	11	12	4
Shortstop, Second & Third Base	11	23	10
First Base	17	40	21
Outfield	24	53	44
Manager	0	0	1

As Table 1 indicates, the greatest black decline is in those positions which have traditionally been more or less reserved for whites—infield positions, pitcher, catcher—those positions more central to the action and presumably involving leadership and/or greater or more frequent decisionmaking prerogatives. Even in traditionally "black" outfield positions, blacks have lost positions.

As social, political, and economic difficulties deepen in America due to such impersonal factors as inflation and the soaring cost of energy, it is likely that the decline of blacks in sport will accelerate. In turn, this decline would:

(1) increase the white opportunities in sport at a time when there is an increasing threat that established ideological blueprints for success and achievement of the American Dream may seem less and less viable to the white masses;

(2) make additional room for the increasing number of whites who may come to see sport as the quickest route to socioeconomic mobility as other high prestige occupational alternatives seem farther and farther beyond their grasp. In essence, whites may be pacified at black expense.

The historical pattern of black-white relations in America remains unchanged: blacks have always been the last hired, the lowest paid, and the first fired during times of general economic crisis. The black athlete, too, was the last to gain access to major sports, has always been the least rewarded to comparably talented whites and, it seems, will be the first eliminated at both the professional and collegiate levels as America's economic problems deepen.

It would appear, then, that not only the past history and contemporary circumstances, but the future prospects of the black athletes and the black masses are inextricably intertwined and interdependent. From this undeniable fact, there is no escape for either—by way of sport or any other route. It follows, therefore, that all concerned have a principal responsibility: first, to understand that Afro-America's involvement with sport is no game, then, to act accordingly.

12. See Michael Washington.

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What Price Victory? The World of International Sports and Politics

By ANDREW STRENK

ABSTRACT: Public opinion and the news media in the United States have generally assumed that sports and politics are separate entities and should be kept that way. However, this has not been the case throughout history. The tremendous emphasis which many nations today place on winning at international events such as the Olympics is due to several factors. Those nations spending millions of dollars on sports programs for elite athletes expect results. Sport can be a very useful political and diplomatic tool and weapon in gaining prestige, protesting various situations, spreading propaganda, and in recognizing or isolating another nation. There is a long tradition of mixing sports and politics which dates all the way back to the ancient Greeks. The development of the Turner movement in the German states of the 19th century, the rise of the Sokol movement in neighboring Bohemia, and the formation of the International Olympic Committee by Baron Pierre de Coubertin later in the same century all served to reinforce earlier traditions linking sports to politics. The result of these developments was to produce a war without weapons. The recognition of this fact is the first step towards limiting some of the most aggressive conflicts which have increasingly plagued modern international sports events.

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SPORTS and politics? Politics and sports? What is the connection? Aren't sports supposed to be free of politics? That is what countless people believe, including most sports journalists. Avery Brundage, President of the International Olympic Committee (1952–1972), the most powerful sports body in the world, never tired of arguing that "sport . . . like music and the other fine arts, transcends politics. . . . We are concerned with sports, not politics and business."[1] The President's Commission on Olympic Sports, formed in the United States to investigate the reasons for our poor showing in international sporting events, noted "with deep regret the declining ability of the nations of the world to separate sport from politics."[2]

The reality of the world is that sports are politics. Arab terrorists kidnapped and killed Israeli athletes in Munich in 1972. The Mexican government shot and killed students protesting the 1968 Olympics in Mexico City. Thirty-two nations boycotted the 1976 Olympics in Montreal because New Zealand maintained sports relations with South Africa. The losers of the world wars have been banned for several years from the Olympic movement. Gabon, the Congo, Honduras, and El Salvador have gone to war over the outcome of soccer games. The United States refused for two decades to issue visas to East German athletes to compete in this country. On the other hand, the Americans utilized table tennis to open relations with the Peoples' Republic of China. Argentina and Brazil sought success in soccer to improve the image of dictatorial regimes. Austria used the Winter Olympics as a sales vehicle to lure tourists and promote the sale of Austrian ski equipment. The Soviet Union and the United States attempted to proclaim the superiority of their political and socioeconomic systems by winning the most Olympic gold medals. American sportsmen have protested racial discrimination with black power protests. Indonesia tried to fight imperialism by organizing its own political Games of the New Emerging Forces. Wherever one looks, sports serve as a tool of politics in one form or another—as a means of diplomatic recognition or isolation, as a vehicle of protest and propaganda, as a catalyst of conflict, as a way to gain prestige or further international cooperation, as a vehicle of internal social control, as a stimulus to modernization and unification. The list of examples is endless.

East Germany: leader in sports politics

The forerunner in the field of "sports politics" is, without a doubt, East Germany. Using sport to break the blockade by West Germany and NATO imposed by the Hallstein Doctrine, the German Democratic Republic (GDR) poured nearly two percent of its annual Gross National Product (about 400 million dollars in 1970) into sports development and research programs with the goal of producing the world's best athletes. Numerous state organizations, such as the Free German Labor Federation (FDGB), contributed as much as 13 percent of their budgets

1. International Olympic Committee, ed., *The Speeches of President Avery Brundage* (Lausanne: IOC, 1968), p. 67; and IOC, ed., *Olympism* (Lausanne: IOC, n.d.), p. 10.

2. *The Final Report of the President's Commission on Olympic Sports, 1975–1977*, vol. 1 (Washington: USGPO, 1978), p. ix.

to the GDR sports program.[3] East German athletes piled up medal after medal in international competitions; each medal and record earned them invitations to further events. By 1976, they had garnered 92 gold, 94 silver and 86 bronze medals in the Olympics. In fact, in Montreal in 1976, they won more gold than the perennial Olympic contender, the United States. This small nation of seventeen million people had won, in addition, some 340 world and 263 European titles by 1976. More importantly, the GDR athletic success paved the way for their international diplomatic and political recognition. The isolation imposed by the West was broken. As Guenther Heinze, vice-president of the German Sport and Gymnastic Federation (DTSB) noted in 1973:

> GDR sport did its part in obtaining recognition internationally for the GDR. Sport led the way in increasing the international prestige of our socialistic republic and led to its diplomatic recognition by a majority of states of the world.[4]

Manfred Ewald, president of the DTSB, as well as the GDR Olympic Committee and a ranking member of the ruling Socialist Unity Party (SED), stated in 1976 that competitive sport "contributes to the worthy representation of our socialist country abroad."[5] Erich Honecker, currently first secretary of the SED and the leading political figure in the GDR today, wrote as long ago as 1948 that "sport for sport's sake i not a goal; rather it is the mean to obtaining other goals."[6]

The Soviet Union and sports

The Soviets have viewed interna tional sports from a similar perspec tive and have dominated the inte national sports scene since 195 winning every Olympic Games sinc then, except for 1968. Bent o achieving international prestige an demonstrating the superiority c their socioeconomic system an political ideology, they, too, hav devoted immense sums to spor During the 1960s, the Soviet govern ment spent some 55 million dollar a year on sport. In addition, th state insurance fund, trade union consumer cooperatives, the police the military, various governmenta agencies, voluntary sports societie and local Soviets devoted annuall between six and twenty percent o their funds to sports during that sam time period. The contribution b trade unions in 1971 alone was abou 440 million dollars.[7]

Sport was a tool of Soviet foreig policy designed to win friends an impress the Third World and neigh boring countries. The advent o detente did not mean any relaxa tion of the ideological conflict wit the capitalistic West; sport con tinued to serve its functions, as th Soviet writers Yuri Kotov and Iva Yudovich stressed:

> The increasing number of successe achieved by Soviet sportsmen in spor has particular significance today. Eac new victory is a victory for the Sovie

3. "Bei uns ist es immer Olympia" *Der Spiegel*, vol. 26, no. 34 (14 August 1972), p. 93.

4. Guenther Heinze, "Der DDR Sport—ein anerkannter und geachteter Partner im internationalen Sportleben" *Theorie und Praxis der Koerperkultur*, vol. 22, no. 16 (October 1973), p. 874.

5. S. Manfred Ewald, "Sports in the Socialist GDR," *Sport in the GDR* vol. 3 (1976), p. 2.

6. "Bei uns ist es immer Olympia" *De Spiegel*, vol. 26, no. 33 (7 August 1972), p. 72.

7. James Riordan, Sport in Soviet Societ (Cambridge: Cambridge University Pres 1977), p. 254; *Sport v. USSR* 9 (1972), p. and *Sovetsky Sport*, 19 March 1972, p. 2.

form of society and the socialist sports system; it provides irrefutable proof of the superiority of socialist culture over the decaying culture of the capitalist states.[8]

The Soviets, as in the case of the East Germans, are reaping tremendous propaganda advantages from their sports programs. Given this advantage, there is hardly any reason for them to divorce sports and politics.

However, what many Americans do not know is that there is a long tradition of interaction between sports and politics. The socialist countries of Eastern Europe are the heirs to this tradition. The United States, on the other hand, inherited a very different tradition from the British and has been slow to change its priorities. Relatively little money is spent on international sport in the United States. The extreme fragmentation of sports federations has resulted in franchise disputes and an uncoordinated pursuit of athletic goals. Some American politicians, on the other hand, have recognized the political value of sports in foreign affairs. Vice-President Hubert Humphrey said in 1966:

What the Soviets are doing was a challenge to us, just like sputnik was a challenge. We are going to be humiliated as a great nation unless we buckle down to the task of giving our young people a chance to compete.[9]

Eight years later, President Gerald Ford expressed the same viewpoint:

Do we realize how important it is to compete successfully with other nations? Not just the Russians, but many nations are growing and challenging. Being a leader, the United States has an obligation to set high standards. . . . With what they are, a sports triumph can be uplifting to a nation's spirit as well as a battlefield victory.[10]

Despite such pronouncements, the vast majority of Americans have remained convinced that sports and politics are separate issues. Actually, sports have been political ever since Pelops defeated Oenomaus in a chariot race and took his kingdom and his daughter in the process in the ninth century B.C. As a monument to his intrigue, Pelops reportedly established the Olympic Games in the valley of Olympia near Elis.

ANCIENT TRADITIONS

The Greeks

Man has engaged in sport since the earliest times. Petroglyphs and cave paintings at Alta Mira, Lascaux and other sites across Southern Europe and Northern Africa display numerous hunt scenes, as well as representations of figures running, jumping, swimming, throwing and engaging in other sporting activities.[11] The usefulness of sports and physical training in war was evident to early man. It was the ancient Greeks, however, who introduced the idea of organized sports to the world. They developed great Pan Hellenic athletic festivals known as the Olympic, Pythian, Nemean and Isthmian Games. While these events

8. "Soviet Sport and Soviet Foreign Policy: in *Sports and International Relations*, ed. Ben Lowe, et al. (Champaign, IL: Stipes, 1978), p. 318.

9. "Humphrey Asks Greater Sports Effort," *New York Times*, 23 March 1966.

10. Gerald Ford, "In Defense of the Competitive Urge" *Sports Illustrated*, vol. 41, no. 2 (8 July 1974), p. 16.

11. Gerhard Lukas, *Die Koerperkultur in fruehen Epochen der Menschenentwicklung* (East Berlin: Sportverlag, 1969), p. 16; H. W. Jansen, *History of Art* (Englewood Cliffs, NJ: Prentice-Hall, 1967), pp. 18–19.

had a religious dimension, they were not lacking in political characteristics. Success in these athletic events, which attracted contestants and spectators from all over the known world, proved to be an excellent means of winning popularity and increasing prestige, and ultimately, power, for city states. Numerous tyrants and would-be tyrants from the Greek city states competed and won. For example, Myron, the successor to Orthagoras of Sicyon, won the chariot race in 648 B.C. Alcibiades of Athens entered seven chariots in the Olympics to demonstrate that the Peloponesian Wars had not impoverished Athens; he thereby furthered his own popularity, too. Even Alexander the Great participated in the foot race. Centuries later, Nero deemed victory at the Olympic Games important enough for him to enter the chariot race. Victory brought fame and recognition which, in an age which lacked television and radio, was more difficult to attain. If a politician was unable to participate himself, he simply bought up talented athletes and encouraged them to settle at his court. Their victories redounded to the credit of the city and ruler they represented.[12]

The Greek Games were organized, regular events which went far beyond the festive and cultic games of other peoples in the ancient world. Other societies had physical education programs, produced at letes and athletic performances, b there was no parallel in the Weste world for the role which athleti played in Greek society. Greek li revolved around the idea of "agon or contest, which was the one wa to achieve "arete" or glory, a virtu which assured one of an immorta status approaching that of the god themselves. The poems of poets, th statues of sculptors, the vase paint ings of artists and the stories o historians would live on long afte the competitor had passed from th scene. Victory also brought mor immediate rewards of financial gai and political power. Solon of Athen paid Olympic victors from the cit 500 drachmas. Those who enjoye political power or wished to acquir it for themselves or their familie found it convenient to be nea successful athletes in order to utiliz the aura of prestige for their ow gain.[13]

Furthermore, these Greek contests appealed to the Greek love o autonomy while, at the same time reinforcing the pride in Hellenism The various Greek city states identified closely with their citizens wh were competing. The gathering o Greeks from all over the known world reinforced the consciousness of being Greek and kept alive those religious, educational, and cultural traditions which separated the Greeks from the barbarians. Thus, the political element was very much a part of the ancient Olympics.

The intervening ages

Politics in sports did not disappear from the scene under the Romans. However, there was less international political significance

12. Maurice Bowra, "Xenophanes and the Olympic Games" in *Problems of Greek Poetry* by Author (Oxford: Clarendon Press, 1953), p. 25ff; Alvin Gouldner, *The Hellenic World* (New York: Harper and Row, 1965), p. 41ff; Pindar, *The Odes of Pindar*, Richard Lattimore, trans. (Chicago: University of Chicago Press, 1947), p. 1ff; Thucydides, *The Peloponesian Wars*, Rex Warner, trans. (Baltimore: Penguin, 1954), p. 376; and E. H. Gardiner, *Athletics of the Ancient World* (London: Oxford, 1955), p. 59.

13. Athletics of the Ancient World, p. 4.

attached to their sporting events. While the Olympic Games continued until 394 A.D., the Romans preferred chariot races and gladiatorial contests. These events served as a means of internal social control. The masses of the Roman cities, especially under the Empire, scratched out a living and were glad to be entertained by the "bread and circus" programs of various politicians. Julius Caesar reconstructed the Circus Maximus in Rome for chariot racing; Emperor Trajan added another 5,000 seats; and Maxentius built a newer circus outside the original walls. Many of the emperors sponsored chariot racing as a way of maintaining or increasing their prestige. Their stables of horses attracted supporters who formed eventually into the so-called "factions" known as Reds and Whites and later, Blues and Greens. Especially in the Eastern Roman or Byzantium Empire, these factions were integrated into a dazzling, colorful ceremony which aimed at exalting the emperor. The emperors knew how to extract the maximum amount of publicity from their appearances at the races, and the factions served to multiply the pomp and pageantry of the occasion. As loyal supporters of the emperor, the factions were sometimes called upon to defend the walls of Constantinople when danger threatened. Thus, sport in the Roman world served not only as a place for the average spectator to "drive his troubles away," it also served as a means of social control and a vehicle to increase the prestige of the government.[14]

14. Alan Cameron, *Circus Factions. Blues and Greens at Rome and Byzantium* (Oxford: Clarendon, 1976), pp. 294–296; Harold Harris, *Sport in Greece and Rome* (Ithaca: Cornell, 1972), p. 184ff and 238ff.

Following the fall of the Western Roman Empire in 476 A.D., organized sport entered a period of decline. Sports events did not entirely disappear, however, since the Middle Ages were an era of violence and war. Consequently, it was necessary to keep military forces well-trained. The joust, or tournament, was used to keep the cavalry in fighting shape. Over the centuries, more and more rules and regulations were imposed to limit the spatial and temporal extent of the joust so that it came to resemble war less and sport more. Victory was a way to prestige and status for the successful contestant, and even more prestige could be reaped by the prince, lord, or king who organized such an event. Furthermore, the attendant festivities and celebrations kept the minds of the spectators off other issues.

Change in the tactics and armaments of warfare gradually made the heavily armoured knight less valuable in fighting. In Italy, the joust came to be replaced by a game known as *ponte*, or "bridge game," a mock battle for the possession of a bridge in northern Italian towns during the late Middle Ages and the Renaissance. Not only did *ponte* serve as a type of training for foot soldiers, it also allowed the political factions in Italian towns to "let off steam" in a carefully controlled and officiated free-for-all. The military dimension gradually regressed into the background, and the political importance for the various Italian city-states expanded to fill the vacuum. A similar game known as *pugna* was played in the marketplace square instead of on a bridge. When important political figures arrived for visits, such as the trip by Charles V to Siena in 1536, a special *pugna* or *ponte* was likely to

be organized. Another game, the *calcio*, a forerunner of modern soccer, was played at important events, such as weddings of important families or state visits.[15]

Governments in certain Western European states, struggling to extend the realm of their authority, were not above emphasizing and encouraging those sports which had a military value. The English passed numerous regulations promoting archery and the practice of using the new longbow in the 1300s and 1400s. On the other hand, the English crown attempted to control sports, such as preindustrial soccer, because the political potential of the games was considered to be too explosive. Games often got out of control, leading to social unrest, riots, violence, and even death. The resulting riots tested to the limits the ability of local and national governments to maintain law and order. Games and crowds surged through streets, intersections, fields, buildings, ponds and rivers. Once out of control, such crowds often turned their attention to other objects; customs' barriers, toll-houses and government buildings were sometimes attacked and houses of judges and officials were burned. By the seventeenth of eighteenth centuries, soccer events were deliberately being used by agitators to rally crowds for political purposes.[16] The assembled mob was a captive audience; skillful speakers aroused these groups to various forms of direct political action. Organizing a "football match" was a way to stage a demonstration which otherwise would have been prohibited by governmental authorities interested in controlling dissent.

15. William Heywood, *Palio and Ponte* (London: Methuen, 1904), passim; William Woodward, *Vittorino de Feltre and Other Humanist Educators* (New York: Teacher's College Press, 1963), passim; Michael Bouet, *Signification du Sport* (Paris: Edition Universaires, 1968), p. 244.

16. James Walvin, *The People's Game: A Social History of British Football* (London: Allen Lane, 1975), pp. 12–13.

EAST EUROPEAN TRADITION

The Turner Movement

These links between sports and politics remained rather random until the nineteenth century, when a number of sporting movements arose which combined sports with orchestrated political action. The first of these movements was the Turners, a Pan-German movement which united intense patriotism and nationalistic feelings with physical fitness and gymnastics. The Turners became an important political force in the Germanys during the Napoleonic wars. Jahn advocated an aggressive Germanic patriotism based on the militaristic, hierarchial, authoritarian Prussian model of government. He combined various educational ideas of the German philosopher Johan Guts Muth (1759–1839) regarding physical culture and gymnastics with his own intense patriotism. His main idea was that of "Volkstum," which he outlined in his book, *Deutsches Volkstum* (1810).

"Volkstum" represented his special mixture of Germanic traditions, customs, language, and kinship. Distinctive costumes, public festivals, and massed gymnastic exercises were blended with ideological training. Sport was the device by which Jahn's ideas would be put into practice. Both participants and spectators alike would be awed by the massed formations of his followers, known as Turners, and feelings of patriotism and loyalty would be aroused. The Nazi rallies at Nurem-

berg a century later owed much to the Turner festivals with their flags and torches, music and drill formations. Huge numbers of Turners did calisthenics in unison, attempting to synchronize their movements with those of their neighbors. This was sport in a new sense, unlike anything that had gone before. Jahn and the Turner clubs, which were established all over the Germanys, saw sport as a political and ideological tool useful in preparing their followers for the coming political struggles. The unification of Germany was one of these goals.[17] Jahn was explicit in his purpose:

> It was due to the nature of things that at that time, when turning was first beginning, we did not hide anything from the young boys and youths. The purpose of their exercise was to strengthen the body in preparation for the fight against the enemies of the fatherland as well as to fill the mind with a glowing enthusiasm for the fatherland and a hate for the foe.[18]

The conclusion of the Napoleonic Wars did not bring the unification of Germany sought by the Turners. They had fought valiantly against the French in many battles and now their anger was directed against the governments of the German states. Many of the Turners were involved in the revolutions of 1848. The Hanauer Turnerbatallion was one of the best units supporting the revolution. Ultimately, these young university students were defeated by regular army units, but the Turner movement survived and prospered. Songs such as the following carried on Jahn's ideology.

> Boldly I swing my turner sword
> and sing my turner songs,
> I am driven to the combat
> to fight for the fatherland.
> My youth keeps me yet away
> from the lustre of war,
> Still my arm steels itself
> to fling the mighty lance at
> the enemy swarms.
> I call myself a turner and
> feel the German heritage in my breast
> driving me to fight in the battle
> and to give my blood for freedom.[19]

Following the unsuccessful revolution of 1848, those Turners who did not emigrate to America regrouped into the *Deutsche Turnerschaft* and continued to propagate physical fitness and German nationalism. Huge festivals (*Turnfeste*) attracted participants from all over Europe. The Communist *Spartakiades* of today are modeled after these events. The Franco-Prussian War of 1870–1871 brought the Turners flocking to the army again. After the war, with Germany now unified into one state, they became one of the mainstays of the new imperial government of the Second Empire. As sports-minded as ever, their ideology continued to be anti-foreign, anti-Jewish, anti-socialist and anti-communist. When the Nazis assumed power in 1933, the Turners joined the Nazi movement in large numbers. Today, their influence lives on in the form of military

17. Seigfried Moosberger, *Ideologie und Leibeserziehung im 19. und 20. Jahrhundert* (Ahrensburg: Czwalina, 1972), p. 22ff; Carl Diem, *Weltgeschicte des Sports* (Stuttgart: Cotta, 1971), p. 920; George Jahn, *Politik und Turnen. Die Deutsche Turnerschaft als nationale Bewegung im deutschen Kaiserreich von 1871–1914* (Ahrensburg: Czwalina, 1972), p. 22ff; Wolfgang Eichel, et al., *Geschichte der Koerperkultur in Deutschland*, 1789–1917.

18. Moosberger, p. 22. Quoting from K. Wildt, *Friedrich Ludwig Jahn und das deutsche Turnen* (Leipzig, 1931), p. 23ff.

19. Heinz Egon Roesch, *Ist das noch Sport?* (Freiburg: Herder, 1972), p. 61. Quoting from the *Rheinische Turnhalle* 8 (1847), pp. 121–122.

marches, mass gymnastics and festivals.[20] The most important legacy of the Turners, however, was the association of sport and political ideology. The GDR and other East European nations have adopted this association to its fullest extent.

The Sokol Movement

The Turners were not the only central European movement which combined sport and politics in an organized fashion in the nineteenth century. Miroslav Tyrs (1832–1884), a professor of art history in Prague, refined Jahn's ideas with his own and the traditions of Bohemia to develop the Sokol movement. Similar to the Turners, this movement stressed physical fitness and the reawakening of national consciousness. However, instead of being a Pan-German movement, Tyrs' group was Pan-Slavic. The Sokol organization was a moral, educational, intellectual, and nationalistic sports movement. Beginning in Bohemia, it spread throughout the Austro-Hungarian empire by attempting to build a sense of brotherhood among the oppressed Slavic elements in the empire. Personal interests were subordinated to the common goals. Denied political representation under the structure of the Austrian- and Hungarian-ruled state, the Sokols offered politically active Slavs an outlet for their energies. Mass gymnastics, colorful costumes, and lectures on national independence gave many Czechs a new meaning in their lives. The movement established libraries, health funds, social insurance, accident compensation, schools, playing fields and campgrounds. Patriotism and physical fitness were the dominant themes of Sokol lectures. Their chance came in the First World War; drafted into the Austrian army in huge numbers, the Sokols surrendered by the thousands upon reaching the front. Once on the Allied side, they re-formed their legions and fought with the Russians and Italians against the hated Austrians. The Treaty of Versailles in 1919 rewarded their sacrifices with the establishment of an independent Czechoslovakia. The new government provided the Sokols with financial assistance, thus becoming the first modern government to officially endorse sports.[21]

The workers' sports movement

The nineteenth century saw the rise of another group which consciously used sports to attain various political goals. The worker's sports movement used sport as a means of ideological education and political propaganda in much the same way as the Turner and Sokol movements. In Germany and other European countries, many of the sports clubs established in the nineteenth century, such as the *Deutsche Turnerschaft*, excluded workers, forcing factory workers to form their own sports organizations. These clubs usually linked up with working-class political parties, such as the Social Democratic Party in Germany. For millions of workers, sport thus became a vital aspect of the

20. Moosberger, p. 111; see "Was die DDR unter Koerperkultur versteht" *Frankfurter Allgemeine Zeitung*, 30 July 1977; "Die grosse Heerschau mit Olympiasiegern von Morgen" *Frankfurter Neue Presse*, 30 July 1977; "Sport als eine ideologische Auflage" *Sueddeutsche Zeitung*, 30 July 1977; "Vergoldetes Land" *Der Spiegel*, vol. 31, no. 31 1 August 1977.

21. L. Jandacek, "The Sokol Movement in Czechoslovakia" *Slavonic Review*, vol. 11 (July 1932), p. 65; Diem, p. 831.

revolutionary movement.[22] These workers' sports clubs offered workers a place to relax, exercise, and spend their leisure time. Lectures and other activities often included discussions on political philosophy and tactics. These clubs were opposed to many aspects of the Wilhelmian state established in Germany in 1871. The workers' clubs evolved into the Workers' Turner and Sport Federation (ATUS), which linked up with the Social Democratic Party and contributed to the success of the Social Democrats prior to World War I.[23] The workers' sports clubs carried on massive organizational efforts among the working classes seeking to develop their political consciousness and alert them to their political action potential. In 1920, the ATUS linked up with other workers' sports federations across Europe and formed the Lucerne Sport International (LSI). The LSI sponsored international workers' Olympics and worked generally to use sport and physical education as a tool in the fight against capitalism and militarism. The German workers' sports clubs carried on their organizational and propaganda work throughout this era, even though the Second Empire disappeared in 1918. Separate from the Turners and Sokols, the workers still employed many of the same tactics. Sport was a political tool; there was no division between sports and politics.

THE BRITISH TRADITION: SEPARATING SPORT AND POLITICS

While many of the European states were swept by various political sport movements, the British were developing a different approach. It was this approach that was exported to the English-speaking world. The American attitude towards sports was thus different from that of the European continent in many ways. The word "sport" itself was an English word, stemming from the Latin word "portare," which became "deportare" and then, "desportare" in Middle-French. The Normans brought their language into Britain with their invasion. One of the new words was "disport," which meant to "amuse" or "entertain" oneself.[24] Since the only people who had the time and money to amuse themselves at any great length in the following centuries were the members of the upper class, sport was a prerogative of nobility and gentry. Much of British sport was connected with gambling, an activity in which only the upper classes could engage to any large degree.

Gambling necessitated the formation of certain rules to insure fairness, to protect the investment of the bettor and to equalize chances. The ideas of fair play and sportsmanship also grew out of gambling. The sportsman was a gentleman; he was also an amateur, in the sense that he did not make his living from the sport. Sport was an amusement, a diversion. A professional was one who

22. David Steinberg, "The Workers' Sport Internationals, 1920–1928" *Journal of Contemporary History*, vol. 13, no. 2 (April 1978), p. 232.

23. Heinz Timmerman, *Geschichte und Struktur der Arbeitersportbewegung, 1893–1933* (Ahrensburg: Czwalina, 1973), p. 132. See also Robert Wheeler, "Organized Sport and Organized Labor: The Worker's Sport Movement" *Journal of Contemporary History*, vol. 13, no. 2 (April 1978), p. 200ff and Horst Ueberhorst, *Frisch, Frei, Stark und Treu, Die Arbeitersportbewegung in Deutschland, 1893–1933* (Duesseldorf: Droste, 1973), p. 111ff.

24. Henning Eichberg, *Der Weg des Sports in die industrielle Zivilisation* (Baden-Baden: Nomos, 1973), pp. 18–19.

earned his livelihood from sport and thus, had an unfair advantage in any sport contest. The Puritan reign in Britain under Cromwell and his followers reinforced this tendency by banning many sporting activities as frivolous and unnecessary amusements. Thus, sport in Britain entered the nineteenth century with the label of being amusing and entertaining, but somehow separate from real life, which included politics.[25]

The rise of mass society in Britain as a consquence of the Industrial Revolution, the communications revolution, the growth of leisure time via legislation such as the Factory Act of 1867, and nationalism all influenced British life. However, the control of sport by the British upper classes was not challenged. Thomas Arnold of Rugby School (1795–1842) introduced sports into the public school program. The emphasis was on team "games" such as soccer, rugby, and cricket. The purpose of any sport was to build character. Arnold's primary interest was to reestablish the moral influence and control of the headmaster, which were threatened by the unruly energy of the young boys. Games served to drain off this enthusiasm, making the headmaster's task of maintaining discipline easier.[26]

The British took the lead in establishing international sports competitions and federations. The America Cup was launched in 1857. The New York Athletic Club met the London Athletic Club in a track meet in 1857. In 1860, the Heenan (USA)-Sayers (Great Britain) boxing match attracted large crowds at Farnsboro. A year later, an English cricket team played in Australia before a crowd of 15,000. The first international soccer match was played in 1870 between England and Scotland. The International Yachting Federation was established in 1875, followed by federations for horse racing (1878), gymnastics (1881), rowing (1892) and ice-skating (1892). These groups adopted British rules and concepts to a large degree. The concept of nonpolitical sport, that sport was a recreation for gentleman amateurs in their leisure time, was thus transplanted around the globe. Given the historical role which sport had played along with the developments sweeping sport on the continent, a clash was inevitable between these differing conceptions of sport. The United States, being an English speaking country and a former colony, adopted the English tradition. This conflict has been most evident in the Olympic Movement.

Baron Coubertin and the Olympic Movement

Baron Pierre de Coubertin (1863–1937) was a French nobleman interested in educational reform in France. Distressed initially by France's poor showing in the Franco-Prussian War of 1870–1871, he believed that the solution to a stronger France was the establishment of physical fitness and sports programs in French schools. After touring extensively in Europe, Britain, and the United States, he expanded his ideas. He came to see sports as a vehicle for furthering international friendship and understanding, thereby bringing about the goal sought by many thinkers of his day—universal world peace.

25. John Arlott, "Edwardian Sports" in Richard Lukas, ed., *From Metternich to the Beatles* (New York: Mentor, 1973), p. 92; Christian Graf von Krockow, *Sport und Industriegesellschaft* (Munich: Piper, 1974), pp. 10ff and 36.

26. Peter McIntosh, *Physical Education in England since 1800* (London: Bell and Sons, 1968), pp. 16, 31ff.

He established an organization in 1894 which became the International Olympic Committee (IOC) of today. By reviving the ancient Olympic Games, the youth of the world would be brought together. This interaction of the Olympics in friendly sporting contests would lay a foundation of cooperation. Friendships and contacts among peoples of differing backgrounds could be established. These links would, in turn, serve as stimuli to the formation of other links in non-sport areas such as education, cultural exchange and political negotiation. By agreeing to cooperate, the nations of the world would be taking the first of many steps on the road to peace. De Coubertin was, in a sense, an early functionalist. Functionalism was a theory advocated by David Mitrany several decades later, whereby he argued that the experience of fruitful international cooperation would wean people away from their traditional loyalties to one particular nation-state. By cooperating on specific or "functional" issues, some of each nation's sovereignty would be transferred to new international organizations responsible for these issues. Over time, general goals, such as world peace could thus be attained.[27]

De Coubertin's IOC aimed at converting athletic contests into the "free trade" of the future.[28] He wrote:

> Should this institution prosper . . . it may be a potent if indirect factor in securing universal peace. Wars break out because nations misunderstand each other. We shall not have peace until the prejudices which now separate the different races shall have been outlived. To attain this end, what better means than to bring the youth of countries periodically together for amicable agility? The Olympic Games with the Ancients controlled athletics and promoted peace. Is is not visionary to look to them for similar benefactions in the future?[29]

Sport, at least from de Coubertin's point of view, would influence politics by ushering in an era of world peace and international cooperation. What Coubertin and his successors failed to realize was that they had further politicized sport. If sport was going to influence politics, then the interaction would not remain a one-way street. The IOC's very claims of internationalism, moralism and independence thrust it squarely into the realm of politics. Furthermore, the decisions to introduce national flags and hymns into the victory ceremonies and to designate competitors according to their country promoted politics and nationalism during the Games. The Olympic oath came to include the phrase "for the honor of our teams." The Olympic Movement, as de Coubertin organized it, was ideally suited to become a European political forum. De Coubertin attempted in the 1920s to establish the IOC's role in politics by seeking an official association with the League of Nations. Thus, beginning with the first Games in 1896, political actions characterized the Olympics.

CONCLUSION: WAR WITHOUT WEAPONS

The linkage between sports and politics is one which is centuries old. Events in the last century and a half have reaffirmed this tradition. The Turners, Sokol members, and workers' sports clubs strengthened the ideological foundations of modern sport. The Olympic Movement pro-

27. David Mitrany, *The Functional Theory of Politics* (New York: St. Martins Press, 1975), pp. 128–129 and x–xi.

28. *Olympism*, p. 6.

29. Pierre de Coubertin, "The First Olympics" *Century*, vol. 53, no. 1 (November 1896), p. 53.

vided a political forum. The international sports system which developed around the IOC extended the system. The Nazis under Adolf Hitler and the Facists under Mussolini were quick to grasp the possibilities of using sports as political, diplomatic, propaganda, and prestige vehicles. The nuclear stalemate between the United States and the Soviet Union in the field of military affairs did not eliminate competition and ideological warfare between the two countries. Even if both powers did come to the conclusion that war between them was no longer inevitable, other bases for conflict existed. Peaceful coexistence and detente did not rule out ideological competition. Consequently, sports have continued to play an important political role. The appearance of many new states in the postwar era resulted in drives by many of them for recognition and status. Sports events and Olympic participation were ways to acquire recognition and prestige.

Furthermore, the tremendous investments being made by some countries in sports centers, facilities, training and talent development programs, medical and drug research and competitions have generated extreme pressure for success. Enormous human and natural resources are being directed towards producing and supporting star athletes and teams. But when nations convert athletes into pawns for their particular brand of socioeconomic organization or political system, more tension is added. The widespread use of media at all international sports events guarantees participants and their sponsors an instant audience. Losing in such an environment, after the expenditure of millions of dollars and in front of millions of spectators, can lead to frustration. Spectators, encouraged by governments and the media to expect victory, are likewise frustrated when it is not forthcoming; the chances for conflict thus increase. Given all these factors, sports will continue to remain political. The idea of unpolitical sports is, and always has been, a myth. Modern sports are, indeed, a "war without weapons."[30]

Recognition of this fact may bring about the limitation of some of the excesses of political action which have occurred in the past, such as the Black September commando strike at the Munich Olympics and the 1969 soccer war between Honduras and El Salvador. It is difficult to effectively deal with a problem if one refuses to acknowledge that a certain state of affairs exists. Recognition by the International Olympic Committee and by certain Western countries, such as the United States, that sports are indeed political would make reforms and changes easier. For all the heightened tension, conflicts, solicitations of asylum, propagandizing and protests that occur, the Olympics and other international sports events are still valuable in that they offer a symbolic arena and alternate channel for international competition. As Canadian sociologist Donald Ball once wrote: "Olympic competition may provide a relatively benign alternative to several more lethal forms of international conflict."[31] If so, then the interaction of sports and politics has been beneficial. In any case, the linkage is not only long-standing, it is here to stay.

30. Philip Goodhardt and Chris Chataway, *War Without Weapons: The Rise of Mass Sport in the 20th Century and Its Effect on Nations* (London: W. H. Allen, 1968), p. 3.

31. Donald Ball, "Olympic Games Competition: Structural Correlates of National Success" *International Journal of Comparative Sociology*, vol. 13, no. 3–4 (September–December, 1972), pp. 186–187.

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The Rise and Demise of Sport: A Reflection of Uruguayan Society

By MARCH L. KROTEE

ABSTRACT: In an attempt to better understand any nation, it is necessary to examine the salient characteristics of that country's sociocultural process. The significance of the interrelationship of sport and society in Latin America, and specifically in Uruguay, reflects in part the rise as well as the demise of a republic struggling and battling with the problems and issues of advancing technology and industrialization as secondary industrial development begins to diffuse from its rapidly developing South American neighbors. This paper discusses the nexus between sport in the form of soccer and the parallel rise and demise of twentieth-century Uruguayan sociocultural development. Sport serves as a significant indicator within Uruguayan society and tends to mirror the existing societal status. Sport may also serve as a form of social adaptation process for future Uruguayan sociocultural development.

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SOUTH of the Amazon Basin where the warm uplands of southern Brazil's Paraná plateau reach out to grasp the flat expanse of the temperate Argentine pampas lies Uruguay, the smallest of the South American republics.[1] This historical buffer zone is strikingly unique in that it is most famous for its anonymity. Some may recognize Uruguay as a model for democracy and reform, for its birthright to education or even as the place where the German battleship *Graf Spee* attempted to seek refuge during World War II.[2] However, to most North Americans, the Republic of Uruguay remains nondescript.

Despite this apparent anonymous existence, the Uruguayan does not suffer from an identity crisis or from the lack of international recognition. Carlos Maggi, a famous Uruguayan playright and director, has characterized the Uruguayan as not wishing to be a very important man or an insignificant one; he just wants to live in freedom without making any great sacrifices and without forcing others to make them. Uruguay is a country whose people do not aspire to greatness or to anything absolute. They desire that things should be kept in good, human proportion and that human values be treated with proper respect. With such a people, empires are not built nor do they alter the course of history. Here, nothing is very rigorous; everything is improvised, haphazard, and rather ineffectual. In the end, everything is settled by conversation, and never completely.[3] The Uruguayans assume a form of modest pride in the fact that they are not destined to be a major world power, not involved in the struggle for power, and that they have no lofty national ambitions and passions except one; the sport of soccer.[4]

This paper will explore the prominence of the sport of soccer in Uruguay and its interrelationship with the rise and decline of twentieth-century Uruguayan sociocultural development. The basic premise is that sport and in particular soccer serves as a sociocultural indicator of the patterns of Uruguayan society and mirrors the existing societal conditions.

SPORT AS LIFE: SOCCER IN URUGUAY

It is a well known fact that soccer is the national sport of most Latin American countries.[5] Transmitted to this area in the 1860s by English and Scottish seamen, soccer has grown from a leisure-time amusement to the point where it is all-consuming. It is almost a religion, a collective gathering where symbolic di-

1. The area of Uruguay is approximately 72,172 square miles or 186,926 square kilometers, which is slightly larger than the state of North Dakota or all the states that comprise New England. The Oriental Republic of Uruguay is the official name because of its location on the eastern bank of the Uruguay River.

2. Uruguay's literacy rate is approximately 91 percent, and its educational system is free and compulsory through ninth grade. Servico Informativo de los Estados Unidos, *Facts About Uruguay*, Montevideo, Uruguay, 6 June 1977, p. 1.

3. Carlos Maggi, *Marcha* (Montevideo, Uruguay, 24 November 1961).

4. George Pendle, *Uruguay* (London: Oxford University Press, 1963), p. v.

5. The Latin American countries of Uruguay, Brazil, and most recently Argentina, have won eight of thirteen world soccer championships, including the 1924 and 1928 Olympic soccer championships, which were recognized as the world championship prior to the institution of the Jules Rimet World Cup in 1930.

alogue reinforces the values of society and a way of life. The soccer pitch transcends a playing field and serves as a proving ground of sociocultural heritage and nationalistic pride. Furthermore, soccer has become a vehicle to communicate, express, reflect, and sometimes preserve a way of life.

It cannot be disputed that international soccer has reached this pinnacle in Latin America. For example, in 1966 when, after twice defending World Cup Champion, Brazil was eliminated early in competition in England, a period of mourning swept the entire nation. Flags in the large metropolises of Rio de Janeiro and Saõ Paulo were flown at half-mast to reflect the calamity of that nation's defeat. The infamous 1970 soccer war between El Salvador and Honduras, after El Salvador's 3:2 extra-time World Cup victory over Honduras in Mexico, attests to the extreme ramifications of the fortunes of international soccer that are possible. It has also been reported that textile production and on-site accident rates in Saõ Paulo, Brazil, vary directly with the success or failure of the Corinthians, one of the primary major-division soccer powers in that city. Soccer holds no less a place in Uruguayan society.

The pervasiveness of soccer in Uruguay certainly supports Latin America's intense fondness, fervor, and fanaticism toward the sport. In the main hall of the Museo del Fútbol (Museum of Soccer), housed in the 100,000-seat Estadio Centenario in Montevideo, there is a viewing display aptly described "From Cannonball to Soccer Ball." This exhibit traces the British influence not only in the transmission of the sport of soccer, but also on other important aspects of the sociocultural development or Uruguay in its years as a fledgling nation.[6]

It was the British seaman who first introduced soccer in the 1860s along the eastern shore of the Atlantic and to the regions of the River Plata. Soccer was reportedly being played in Buenos Aires in 1864 and, slowly but surely, permeated the 60-mile liquid barrier of the River Plata to Uruguay where the populace of Montevideo quickly took to the game with enthusiasm.

Soccer was immediately incorporated into the existing sporting society and club structure, with the first intraclub match being played to a tie between the British and Uruguayan members of the Montevideo Cricket Club in 1878. The first interclub match between the Montevideo Cricket Club and the Montevideo Rowing Club was played in 1881.[7] Soccer became so popular in the 1890s that sporting clubs, such as

6. In 1807, a British naval force took and occupied Montevideo for seven months. During this period, Brigadier-General Sir Samuel Auchmuty initiated Latin America's first uncensored newspaper, *The Southern Star*. The British also brought to the attention of the Uruguayan the value of serving as a buffer between the powerful forces of Argentina and Brazil. It was Lord Ponsonby, a British diplomat, who assisted and mediated a peace agreement between these factions, realizing the recognition of Uruguay as an independent nation in 1828. In 1842, the British introduced the sport of cricket, as well as instituting the Victorian Cricket Club, which initiated the establishment of sporting clubs as a form of social gathering and societal interaction. In 1844, second-generation British also constructed Trinity Church, one of the first Protestant churches in Latin America. Each of the above has played and continues to play an integral role in the sociocultural processes of Uruguay.

7. José L. Buzzetti and Eduardo G. Cortinas, *Historia del Deporte en El Uruguay* (Montevideo, Uruguay: Comisión Nacional de Educatión Física, 1965).

Albion F.C., established in June, 1891, were formed primarily around the sport. In August 1889, with the graces of Queen Victoria, the first formal international match was played in La Blanqueada against an opposing team from Buenos Aires. These soccer clubs and matches, as with most sporting activity, continued to be heavily influenced by the British.[8] The formal arrival of soccer was confirmed by the establishment of the Uruguay Association Football League in 1900.[9] Further recognition of the popularity of sport, and of soccer in particular, to the populace of Uruguay was indicated by the increase in the number of public playing areas from 2 to 118 in the city of Montevideo between 1913 and 1929.[10]

In the first two decades of the twentieth century there was little question that soccer played an integral role in the Uruguayan's social life. The sport spread throughout the interior of the nation and mushroomed into Uruguay's most popular, as well as its national, sport. Although it was acknowledged that soccer was rapidly developing in Uruguay, the prominence of Uruguay as an emerging nation, as well as a sporting nation, had been largely overlooked.

In order to promote the 1924 Olympic Games, to be hosted by Paris, France, the International Olympic Committee designed a silk scarf to indicate to the world the existence of friendship, peace, and progress through sport. The colorful silk memento included the flag of every country which was to take part in the Olympic Games which featured the British-dominated sport of soccer as the main attraction—that is, every flag save one, that of the Republic of Uruguay.

Today, the original 1924 Olympic Games silk memento is placed at the entrance of the Museum of Soccer and serves to remind Uruguayans of their country's achievements in sport. Uruguay won the 1924 Olympic and world soccer championship and repeated this extraordinary feat in 1928. Thus, Uruguay served notice to the world that this small and insignificant state was to be counted as a sports power. The pervasiveness of sport in the form of soccer has taken such a grasp on the entire nation that it has been stated that soccer and politics, in that order, are the only real topics of conversation in Montevideo.[11]

With the emergence of Uruguay as a leading and widely recognized democratic nation and its concomitant rise to sporting prominence, the government, in order to celebrate the 100th anniversary of the promulgation of the Constitution of 1830, commissioned the construction of the Estadio Centenario as a testimonial to the integral meaning of sport in Uruguayan society. The new soccer stadium was inaugurated on 18 July 1930, when 100,000 spectators witnessed the powers of the River Plata battle for the first Jules Rimet World Cup soccer champion-

8. The nineteenth century British have been credited for spreading the doctrine of competitive sport throughout the world. Pierre de Coubertin, *L'athletisme dans le monde moderne et les jeux Olympiques* (Paris: Bulletin de Comite Internationale des jeux Olympiques, January 1895), p. 4. All players representing both Montevideo and Buenos Aires involved in the first international match won by the Uruguayans 3:0, with the exception of two, were British.

9. *Selección de Textos y Documentos Históricos*, Museo del Fútbol, Montevideo, Uruguay, pp. 12–13.

10. Julio J. Rodriques, *La Educación Física en el Uruguay* (Montevideo, Uruguay: Comisión Nacional del Centenario, 1930), p. 12.

11. Russell H. Fitzgibbon, *Uruguay: Portrait of a Democracy* (New York: Russell and Russell, 1966), p. 42.

ship. Uruguay soundly defeated Argentina 4:2, and witnesses testify that no political crises ever brought as much noise and turmoil to the streets of Montevideo.[12]

THE DEVELOPING PATTERNS OF URUGUAYAN SOCIETY AND SPORT: 1900–1930

As the Republic of Uruguay shifted from the turmoil and internal strife of the nineteenth century to Latin America's "Switzerland of the Americas," sport also developed a more sanguine character.[13] The transformation, which brought recognition to Uruguay as the most politically conscious and articulate nation in Latin America, can most certainly be attributed to the efforts of José Batlle y Ordóñez who was elected president in 1903. In 1904, when the Colorados defeated the Blanco or Nationalist rebels at the Battle of Masoller, Uruguay saw its last civil upheaval for almost 70 years.[14]

Batlle led the nation in a total readjustment, from medievalism to Latin America's most open society, the first such reorganization that any Latin American state had undergone.[15] New reforms, including such dramatic alterations as an eight-hour workday, free public education for all, social security, and state-owned banks, were instituted. These actions, plus the abolishment of income tax, capital punishment, bull fighting, and strict divorce codes, led Uruguay to be labeled South America's first welfare state. A new political awareness in the form of the clear emergence of two-party politics, as well as the separation of church and state, provided Uruguay with a model of sociocultural reform.[16]

The soccer transfiguration can be traced from very informal participation patterns of the residents of Montevideo to the founding in June 1861, of Albion F.C., Uruguay's first predominantly "soccer" club.[17] The establishment of the Uruguayan Association Football League on 30 March 1900, under the leadership of Enrique Cándido Lichtenberger, launched soccer as a national sport and served to announce that soccer had arrived as a dominant social force in Uruguay.[18] The political rivalry of

12. It is interesting to note that the United States and Yugoslavia were the other two semifinalists. The United States was eventually eliminated 6:1 by Argentina. Fédération Internationale de Football Association, *FIFA News* (Zurich, Switzerland: Berichthaus, Zurich, Volume 181, June 1978), pp. 317–320.

13. Of the 25 governments that guided Uruguay between 1830 and 1903, nine were forced out of power, two were liquidated, and ten resisted at least one major revolution. Simon G. Hanson, *Utopia in Uruguay* (New York: Oxford University Press, 1938), p. 3.

14. President Gabriel Terra (1931–1938) did engineer a coup d'etat in 1933, establishing himself as a dictator pending the writing of Uruguay's first constitution. In June 1973, in the face of chaotic internal conditions, the president suspended certain civil rights and disbanded the government's bicameral General Assembly or Congress. Elections are to be held again in 1981, pending approval of the military who, at this writing, maintain control.

15. Frederick B. Pike, *Freedom and Reform in Latin America*, Notre Dame, IN: University of Notre Dame Press, 1959), p. 234.

16. The two dominant political camps in Uruguay are the *Blancos*, the whites, conservatives and rural-related faction; and the *Colorados*, or reds, liberals and often related to the urbanite. The Colorado party has been the dominating force of Uruguayan politics since the founding of the Republic in 1830.

17. Soccer was reported to be played in 1885 in physical education classes in the British high school. José Buzzetti and Eduardo G. Cortinas, *Historia del Deporte en El Uruguay* (Montevideo, Uruguay: Comisión Nacional de Educatión Fiśica, 1965), p. 54.

18. The original clubs formulating the Uruguayan Association Football League were the Albion F.C., Uruguay Athletic Club, Central Uruguay Railroad Cricket Club, and the

the Colorados and the Blancos produced rival clubs and served to create public interest in soccer based on this antagonism. This conflict is exemplified in the long standing rivalry between the Peñarol, a sporting club founded by British railway workers in 1895 (circa) and Nacional, founded in 1899. The founding and development of these two sporting clubs set the stage for the rivalry and domination of Uruguayan soccer which exists today.

In 1904, the Fédération Internationale de Football Association (FIFA) was founded, and although soccer took a second seat to World War I, the years surrounding the great conflict had little direct impact on Uruguayan society or sport. In 1924, FIFA formally acknowledged Uruguay's Olympic soccer champions as world champions. Although Uruguay had not been a FIFA founder nation, as were Belgium, Denmark, France, the Netherlands, Spain, Sweden and Switzerland, Uruguay captured the Olympic Championship as the New World showed the Old World and the continent of Europe the true beauty and art of the game.

The next year, Dr. Enrique Buero, a Uruguayan diplomat and avid soccer fan, met with Jules Rimet in Geneva, Switzerland, and together they put together the first true World Championships. In the wake of the sporting excitement of 1924 and the prosperous years of the 1920s, the tiny nation of Uruguay agreed to underwrite the total expense of all tournament teams who wished to compete in the newly conceived World Cup. This ambitious invitation, however, took five more years and yet another Uruguayan Olympic soccer championship in the Netherlands to convince the Europeans to cross the Atlantic. It seems characteristic yet beguiling that the smallest republic in the New World would lead Latin America not only in sociocultural reform, but also in prowess in international soccer.

Deutscher Fussball Klub of Montevideo. The Uruguay Association Football League was founded by men of British stock, such as J. A. Davie, P. D. Chater, G. H. Calder, W. J. Maclean, A. R. Roebuck and C. Trinkel, all of whom joined with E. C. Lichtenberger and L. Deaugustine to form the Commission of Directors of the league. *Selección de Textos y Documentos Históricos*, Museo del Fútbol, Montevideo, Uruguay, pp. 10–13.

URUGUAYAN SOCIETY AND SPORT: 1930–1960

The era of the 1930s was ushered in not only by the birth of the first Jules Rimet World Cup Championship, but also by the death of Jóse Batlle y Ordóñez. Batlle, however, had brought the Uruguayan society to a prominent economic and political position in Latin America. This economic prosperity, together with the continuing fervor attributed to the international prestige associated with its 1924 and 1928 Olympic and World Soccer championship victories, reaffirmed to the world that the tiny nation of Uruguay would still accept the total fiscal responsibility for staging the pending 1930 World Cup. The event was to coincide with the nation's 100th anniversary of the promulgation of the Constitution of 1830 and the construction of Estadio Centenario. Uruguay was more than up to the economic, as well as the physical task. The tiny nation shut out Peru 1:0 and Rumania 4:0 in Group play, dominated Yugoslavia 6:1 in the World Cup semifinals and soundly inflicted defeat on its Rio de la Plata adversary, Argentina, to capture the first World Cup soccer crown. This victory initiated twenty

subsequent years of sociocultural and sporting success.

In the wake of such prosperity and fortune, however, loomed the economic depression which was to inflict far-reaching wounds on the economic structure of Uruguay.[19] The decay of the economy, rising unemployment, and Batlle's ineffective, divisive and floundering *colegiado*, the legislative body which was unable to cope with the crises at hand, led to the coup d'etat of 1933.[20] The remainder of the 1930s witnessed a long uphill struggle to recover foreign markets and also resulted in a virtual recess from international soccer competition. Uruguay sent no representatives to the 1934 or 1938 World Cup Championships in Italy or France and, indeed, no qualifying matches were played for the South American zone. South America was represented by Brazil and Argentina in 1934 and Brazil and Chile in 1938 in the Anschluss-marred World Cup matches, which witnessed Estonia's last World Cup appearance.

With the shock and tensions of the depression still visible, World War II enveloped the tiny nation as well as the rest of the world. The 1939 scuttling of the *Graf Spee* in Montevideo harbor, the 1940 Nazi plot to seize the government, and the obstruction of government action by the anti-United States Blanco Party brought the war to the door step of Uruguay and forced President Alfredo Baldomir to dismiss the evenly divided and politically stifling General Assembly. At this time Uruguay also severed relations with the Axis powers. In 1942, elections were conducted and a new and modified Constitution eliminating the evenly divided Assembly was subsequently drafted. Some of its provisions included lowering the voting age to 18, instituting paid vacations for all workers, resetting the minimum wage, and creating a family assistance program. Uruguay once again returned to a democratic and socially progressive way of life which President Terra's regime had temporarily deflated.

The early fifties brought a very brief political and economical honeymoon to Uruguay, the most democratic of all Latin American nations.[21] Record wool prices, heavy government subsidizing of agricultural projects, large United States' purchases, and new Brazilian trade pacts, in part, accounted for Uruguay's economic success. At the same time, two-party governmental cooperation provided political stability during the 1951 constitutional period.

Accompanying this brief period of sociocultural and democratic restabilization, and perhaps serving as a reinforcing agent, was Uruguay's return to the international playing field in 1953. The World Cup was reinstated and the first championship was to be hosted by the Latin American sleeping giant—Brazil. Uruguay represented Group 8 and trounced Bolivia 8:0, tied Spain 2:2, defeated Sweden 3:2 and nar-

19. The Uruguayan economy was centered around cattle and sheep. The 1930s brought a shrinking of these two vital markets to which over 90 percent of Uruguay's land use and two-thirds of its work force was directed.

20. The *colegiado* was based on the Swiss system of a collegiate head of the executive branch of the government. This system was adopted in 1919 and stayed existence until the 1933 coup d'etat by President Gabriel Terra. Philip B. Taylor, *Hispanic American Historical Review*, August 1952, pp. 301–320.

21. A poll taken in 1945 and 1950 found Uruguay first among Latin American countries as a democratic state. Russell H. Fitzgibbon, "The Measurement of Latin American Political Phenomena: A Statistical Experiment," *American Political Science Review*, vol 34, June 1951, pp. 517–523.

rowly edged host Brazil 2:1 to reclaim its World Cup Championship.[22] The final game in Rio de Janeiro's Marcaña Stadium was played before 205,000 spectators. The ensuing Uruguayan victory celebration in Montevideo stimulated episodes of violence and even death. Carrasco International Airport was closed due to uncontrollable crowds which flooded the runway. These crowds resulted in the diversion of the team's plane to an alternate airport.[23]

Eventually the sociocultural prosperity began to decay because of constant political haggling, an Argentine tourist and trade embargo, the end to the Korean conflict, and the decline of world prices for wool and meat. A similar deterioration in soccer was not immediately experienced but it did occur. The descent began in 1954 with Uruguay's participation in the World Cup in Switzerland. Uruguay, invited by virtue of being the current title holder, shut out Czechoslovakia 2:0 in Berne, and Scotland 7:0 in Basel and advanced to the final four by defeating England 4:2. Uruguay then lost an extra-time decision to eventual runner-up Hungary and again 3:1 to Austria for a fourth place finish, its worst finish in several World Cup appearances.

Although a small slip from first to fourth in World Cup soccer is seemingly negligible, this minute sport slide served as an omen for the larger sociocultural problems of Uruguay. The record-high markets of wool and meat were dropping while the cost of living in Uruguay was escalating In 1957, a series of stifling strikes, including longshoremen and university students, plagued the nation. This internal strife led to the folding and departure of the United States companies of Armour and Swift, as well as to a major trade deficit.[24]

It seemed that Uruguay was on a sociocultural collision course. In November 1958, 1 million out of a possible 1.4 million eligible voters turned out to the polls, and for the first time since 1865, the Blanco Party upset the Colorado Party and acquired control of the ailing government. On the sporting front, in 1958 Uruguay was shut out by Paraguay 5:0 in Group 3 elimination play-offs, as Uruguay failed to qualify for the World Championships for the first time in the history of the World Cup.[25]

To compound the situation of dwindling marketplaces, inflation, unemployment, strikes, ineffective economic control, and the lack of soccer success, 1959 also saw torrential rains which caused extensive flooding in over one-third of the nation. These complex factors, coupled with the death of long-time Blanco political leader, Luis Alberto de

22. It is interesting to note that Germany did not participate in the 1950 World Cup and Argentina, under Perón's regime, withdrew from competition. The United States, although eliminated in Group 2 play, did defeat favored England 1:0 which helped to drop England out of contention and assisted Spain's representation into the final round of 4.

23. Russell H. Fitzgibbon, *Uruguay: Portrait of a Democracy* (New York: Russell and Russell, 1966), pp. 58–70.

24. The trade balance in 1956 was a favorable $13,000,000, but by May 1957, had turned into a deficit of $50,000,000 and by October 1957, to a deficit of over $90,000,000. The gold and foreign exchange holdings dropped from $147,000,000 to $55,000,000 in 1957 and the peso was at a record low. The strikes at times included 44 various organizations and served to further depress the economy of the nation.

25. Nineteen fifty-eight marked the introduction of Pelé, as well as Brazil, to world prominence. Pelé led all Brazilian teammates in scoring, with five goals, as Brazil dominated host Sweden 5:2, in Stockholm, to capture its first in a series of World Cup Championships.

Herrera, placed the country in a state of economic and political chaos.[26]

THE DEVELOPING PATTERN OF URUGUAYAN SOCIETY AND SPORT: 1960–PRESENT

Although the Blancos succeeded in capturing a second straight election in 1962 by a slim margin of 11,000 ballots, in the 1960s it became clear that the tiny country of Uruguay had economically overextended itself. Instead of the stability that another four years of Blanco domination might offer, the country continued to be wracked by frequent strikes, a staggering rise in the cost-of-living index, and ineffectual governmental operation. Even a newly imposed income tax failed to generate enough revenue to offset excessive national spending and a stagnated agroindustrial climate, which changed its emphasis on world trade and export to one of import and internal consumption.

The inefficiency and chaos which characterized the socioeconomic process of the early 1960s affected the sporting world as well. Although narrowly defeating Bolivia 1:1 and 2:1 and making its way into the final round of sixteen countries for the 1962 World Cup, Uruguay could progress no further. Uruguay was swiftly eliminated in Group 1 playoffs in Africa by both Yugoslavia 3:1 and the USSR 2:1, as its neighbor to the north, Brazil, led by Garrincha and Pelé, captured its second consecutive World Cup title.

In 1966, after eight years of ineffective Blanco reign, the majority of voters returned Uruguay to the rule of the Colorados and to a presidential form of political structure, thereby abandoning the existing *colegiado* format. The new government was headed by Oscar Gestido, a graduate of the Uruguayan Military Academy and one-time head of the Uruguayan Air Force. He was faced with the political and economic pressures of reconstructing a deeply divided and unkempt house. Gestido physically succumbed to these immense problems and died of a heart attack in 1967. He was succeeded by Vice-President Jorge Pacheco Areco. Uruguay's problems continued to worsen, and what had been the "Utopia of Latin America" was becoming, at best, socioculturally devastated.[27]

In 1966, Uruguay once again made it to the final round of sixteen by defeating Venezuela 5:0 and advanced when Peru beat the same team by only a goal. Uruguay had split with Peru 0:1 and 2:1 in Group 1 play. Uruguay then tied eventual World Cup Champions England at Wembley Stadium, but was eliminated when they played Mexico to a draw. The tie with England provided a fleeting ray of sunshine to the Uruguayans; however, this faint glimpse of the past served more as a reminder of what had been a focal point of frustration to add to the many other problems of daily life.

26. The 86-year-old Blanco leader had symbolized the National or Blanco party more than any other Blanco. He had been defeated for president six times and was an avid admirer of the Perón and Mussolini dictatorships. To most, Herrera symbolized the traditional past and the great *estancieros*, or landowners, and for this reason he could never gain popular support from an urban majority of voters.

27. In 1966 and 1967, there were 700 strikes; the cost-of-living index increased 88 percent in 1965, 51 percent in 1966, and 136 percent in 1967; and almost one third of Uruguay's work force of 810,000 held government-related jobs. The social security rolls included over 250,000 and the governmental currency reserves were at $180 million in gold while the government owed over $500 million.

The 1960s ended in a turmoil, amidst dropping markets for wool and beef, price freezes, wage ceilings, strikes and riots in which Uruguay's heretofore little used but famed police were summoned to halt the violence and destruction. Uruguay was in an internal state of emergency which set the stage for violence and eventual military control of the government which still exists today.

Despite this turmoil, 1970 saw Uruguay return to fourth place in World Cup competition in Mexico City. Uruguay defeated Ecuador 1:0, Chile 2:0, Israel 2:0, tied Italy and moved into the final eight. Uruguay then beat the USSR 1:0 in extra-time to move into the final four. Uruguay's dominant neighbor to the north, Brazil, led by Pelé, Jarizinho and Rivelino, knocked Uruguay out of the finals on their way to the World Cup Championship. This performance was the high-water mark of the decade. Its political counterpart was the peaceful election of Colorado Juan M. Bordaberry in 1971. President Bordaberry assumed office in March, 1972, and as increasing violent acts by leftist guerrillas, Tupamaros, persisted, the Uruguayan military began to assert itself.[28] Eventually, a state of internal war was declared. In 1973, the National Security Council (COSENA) was created, and the president disbanded the Congress or General Assembly, replacing this body with senior military officials who constitute what is known today as the Economic and Social Council.

The military reaction to the wave of violence, including kidnappings, shootings, bombings, thefts and riots, had no boundaries. Most of Uruguay's democratic freedoms were repressed, restricted or replaced. The turmoil even invaded the sanctity of the University of the Republic, where classes were suspended for half a year.[29] The new militarist government quickly declared leftist political groups, such as the Communist Party, illegal. The trade unions were restructured and the leftist establishment was eliminated. The military council systematically destroyed the democratic lifestyle on which Uruguayans had prided themselves for almost three-quarters of a century. As the political upheaval came to a head during this period, so it was reflected in Uruguay's action on the international battlefield of soccer.

In 1974, Uruguay managed to survive Group 1 playoffs by defeating Ecuador twice and drawing and losing to Colombia 0:0 and 0:1. In subsequent playoff matches Uruguay was promptly eliminated by the Netherlands and Sweden. The team returned home in as much stormy controversy as was currently found in its country. Uruguayans were tired of losing. If there was not much to brag about in their political and economic life, there ought to be some pride possible from success in soccer competition.

28. The Tupamaros or National Liberation Movement (NLM) was a clandestine urban guerrilla group of extreme leftists. The Tupamaros, who received their name from Tupac Amaru the Inca rebel who led the uprising against the Spanish in 1780, set out to destroy the governmental structure of Uruguay in the 1960s. Their activities came to a head in the 1970s.

29. Before the violence of the early 1970s, the University grounds were considered a sanctuary similar to that of a church. Early in 1973, the University served as a focal point of escape and refuge for leftist rioters, including students and faculty who were sympathetic to the Tupamaro method of creating turmoil in order to bring about a change in the government. As a result, the University was closed and the administration of the University replaced by supporters of the new governmental regime.

In 1976, President Bordaberry was replaced for differing with military views concerning the conduct of the upcoming elections. The elections of 1976 were suspended and a return to a political system similar to that of the colegial was instituted. The power, however, was distributed between members of the military junta, with Dr. Aparicio Mendez serving as the titulary president for a five-year term that expires in 1981.

The reflection of Uruguay's sociocultural problems in sport continued into 1978, as Uruguay failed to qualify for the 1978 World Cup in Buenos Aires by virtue of a humiliating loss to Bolivia. Making matters worse, the two powers who remained undefeated after the 1978 World Cup competition were its immediate neighbors, Brazil and first-time World Cup Champion Argentina.

URUGUAYAN SOCIOCULTURAL AND SPORT REFLECTIONS

To trace the rise and decline of Uruguayan sport and its possible interrelationships with concomitant sociocultural indicators, requires a keen insight into many complex and intertwined variables. It must be realized that the interrelationships between sociocultural and sporting processes should not be viewed as direct or causal in nature but rather as precipitative in influence, serving to shape and mold the Uruguayan sociocultural and sporting process into symbiosis where one may serve to reflect the status and potential of the other. These variables embrace such complex interrelationships as the rise of Uruguayan government from chaos to stability, the British influence in the development of sociopolitical as well as sporting focus, the separation of church and state, the unparalleled development of progressive freedom and political reforms and Uruguay's unique, intimate and long time bonds with its neighbors, Argentina and Brazil. These influences intricately interwoven with those of war, depression, natural disaster, inflation, the development of a public corporate structure, the rise of labor unions, a dual governmental and industrial structure, revolution and a large rural and urban sociocultural cleavage all served to contribute to the rise and decline of the Uruguayan sporting process.

A chart based on the above as well as many other complex sociocultural and sporting reflections is presented (see Figure 1). A tracing of the processes indicate that there seem to be relationships between the sociocultural and sporting indicators presented. At present there seems to be a slight upward trend developing in the sociocultural indicators. Whether this trend or relationship will carry over to the sporting process remains highly speculative as today's Uruguayan sociocultural processes have grown more complex than at any time in history.

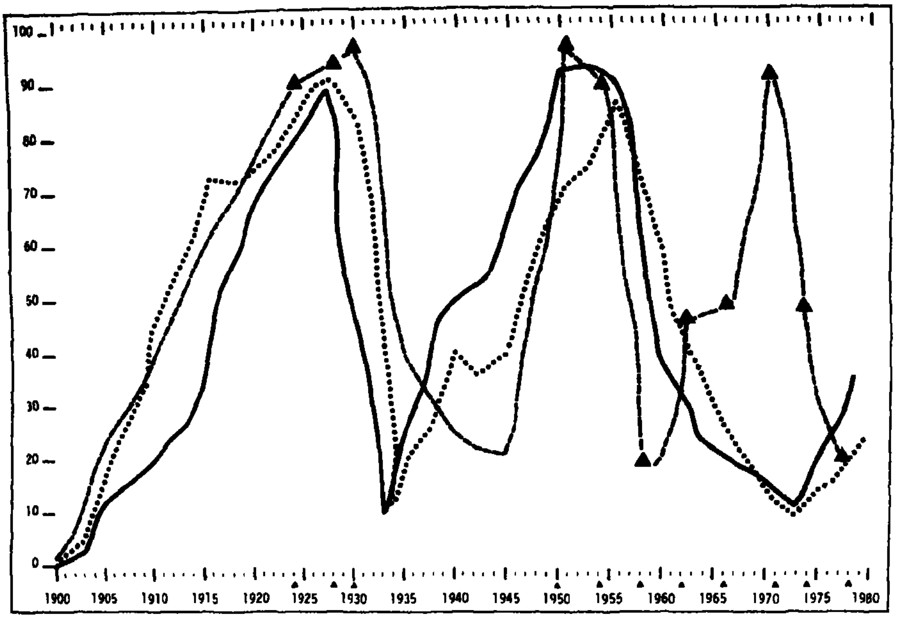
The current state of the union

Uruguay, at this point, is attempting to call upon its past pride and prowess in order to reshape its future. The present sociocultural adaptations of a secondary developing nation shifting to a nation of primary development have placed tremendous internal and external pressures on the tiny nation.[30] The present

30. The basic difference between a primary developing nation and a secondary developing nation is the adaptive sequencing of sociocultural activity. In a primary developing nation, the sociocultural processes adapt to industrialization and advanced technology; however, in a secondary develop-

FIGURE 1

URUGUAYAN SOCIOCULTURAL AND SPORT REFLECTIONS 1900–1980



······· Political stability.
—— Socioeconomic stability as determined by data gathered from government documents, the Bank of London, the Inter-American Development Bank and The World Bank.
--▲-- Sport indicator as determined by world championship soccer status.

military intervention into the government and the violent repression of leftist organizations have taken their toll on Uruguay's reputation as the leader of freedom and democracy in Latin America. Even the Uruguayan must agree that the freedoms once enjoyed have not been fully restored.

ing nation, such as most Latin American agrarian-based societies including Uruguay, certain aspects of the sociocultural process must precede the technological and advanced industrialization. It is envisaged by some that Uruguay is in a phase of development related to becoming a primary developing nation. Richard N. Adams, "The Pattern of Development in Latin America," *The Annals of the American Academy of Political and Social Science*, vol. 360, July 1965, pp. 1–10.

Uruguay is attempting to emerge from its present dilemma and is seeking positive reinforcement that, indeed, the country is on its way to recovery. In the past, the Uruguayan has been able to look to sport to find such a positive indicator, and today is no exception. Since its day of elimination and social humiliation by being excluded from crossing the River Plata for the 1978 World Cup, the Uruguayans have restructured their soccer association, the Association of Uruguayan Soccer (AUF), and have been planning and pointing toward the 1982 World Cup matches in Spain.[31]

31. Personal correspondence with Professor Omar Borrás, Director of the Asso-

The present government has, without question, restored peace and order to the streets of Montevideo. It has also managed to curb slightly its trade imbalance, importation of oil, consumer index, unemployment and inflation, although inflation is still a primary concern of the Uruguayans.[32] The government is also attempting to attract agriculture and small, private industry in an effort to stimulate the economy, create more jobs and to keep its young and skilled professionals at home. Governmental support of such undertakings as the Latin American Free Trade Association (LAFTA), the binational development projects of the Salto Grande hydroelectric works, and the Uruguay River bridges linking Argentina illustrate the efforts of the government to restore Uruguay's leadership in mutual cooperation and understanding.[33] The government has also attempted to take greater advantage of LAFTA by utilizing its interzone trading laws to import a significant portion of Uruguay's needed raw materials from within existing LAFTA boundaries and thus significantly reduce its balance of trade deficit. Improvements in Uruguay's infrastructure, including plans to modernize its sewage, communications, and port systems, are also underway and serve as an immediate and highly visible vehicle to motivate the Uruguayan.

Uruguayan markets for beef, wool, and the heavy demand for leather and textile products seem to be returning Uruguay to a form of economic respectability. Elections, which were suspended in 1976, are tentatively scheduled for 1981.[34] If carried out in proper fashion, in the eyes of the Uruguayan, the country will once again return to its rightful place as a leader and respectable voice of democratic responsibility. These significant sociocultural turnabouts will, without question, return to the Uruguayan some of the quality of life once enjoyed.

However, tremendous sociocultural challenges remain, as Uruguay is pressured into becoming a more highly industrialized or primary developing nation. Can such a small nation, without the crucial industrial ingredients of population, oil and mineral reserves, compete with such emerging Latin American giants as Argentina and Brazil? Can Uruguay return to its past sociocultural prominence?

To answer this question, as an observer, one must calculate and extrapolate into the future. The Uruguayan, however, with a little touch of audacity, needs only reflect

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ciation of Uruguayan Soccer (AUF). Uruguay currently has one of the top 18-years-and-under soccer teams which will compete this year in the Junior World Cup Championship in Japan. The Uruguayans have mapped a plan for the return to past World Cup performance much as the government generated in its 1973–1977 National Development Plan.

32. Between 1960–1970 Uruguay and Brazil were the two leading Latin American nations regarding inflation. In the period 1961–1965, Uruguay's inflation was 30.4 percent and in 1965–1970, 65.2 percent. From 1971–1977, Uruguay's inflation rate spiraled respectively 24 percent, 75.8 percent, 97.2 percent, 77 percent, 81 percent, 51 percent and approximately 40 percent in 1977. Since 1971, this level of inflation has been the highest in all of Latin America with the exception of Argentina and Chile which have recorded inflationary rates of as much as 443 percent and 504.5 percent.

33. Inter-American Development Bank, *Economic and Social Progress in Latin America*, Washington, DC, 1976, pp. 368–375.

34. The election may be restricted to only one presidential candidate selected by the two major parties, but at this point, must be approved by the military. Presumably, in 1985, more free and open elections will be restored.

TABLE 1

WORLD CHAMPIONSHIP SOCCER STATUS CHART

DATE	LOCATION OF FINAL	FIRST PLACE	RUNNER-UP	PLACE OF URUGUAY
1924*	Paris	Uruguay	Switzerland	1
1928*	Amsterdam	Uruguay	Argentina	1
1930	Montevideo	Uruguay	Argentina	1 (USA 4th place)
1934**	Rome	Italy	Czechoslovakia	Did not participate
1938**	Colombes, France	Italy	Hungary	Did not participate
1942	World War II			
1946	World War II Recovery Period			
1950	Rio de Janeiro	Uruguay	Brazil	1
1954	Berne, Switzerland	West Germany	Hungary	4
1958	Stockholm	Brazil	Sweden	Did not qualify
1962	Santiago, Chile	Brazil	Czechoslovakia	Final Round of 16
1966	London	England	West Germany	Final Round of 16
1970	Mexico City	Brazil	Italy	4
1974	Munich	West Germany	Netherlands	Final Round of 16
1978	Buenos Aires	Argentina	Netherlands	Did not qualify

* Olympic World Championships.

** *When only four European teams (Belgium, France, Rumania and Yugoslavia) participated in the* inaugural 1930 World Cup matches, it was decided by Uruguayan officials that Uruguay would boycott the 1934 World Cup to be held in Rome. In 1938, France organized the third World Cup to pay homage to the Italian champions and once again Uruguay declined to take part.

on the 1930 and 1950 World Cup Championships where Uruguay laid claim to one of the primary sociocultural indicators of world prestige—that of international sport and the World Cup—to answer the question. For an indication of what is to come, perhaps we had best, as the Uruguayan is doing, focus on Uruguay's performance in the 1982 and 1986 World Cups in Spain and Colombia. If history is any indication, the outcome of Uruguay's performance on the playing field will serve to mirror its sociocultural progress and test the state of the tiny republic.

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South Africa: Sport and Apartheid Politics

By RICHARD E. LAPCHICK

ABSTRACT: In South Africa, sports policy is a direct reflection of a political system which is based on the systematic exclusion of nonwhites from full membership in all of that society's institutions—including sport. This system, designated as apartheid, exists in no other nation, even those with high levels of political oppression. Despite severe sanctions from the international sport community, including expulsion from the Olympics and the withdrawal of competition, apartheid continues relatively unabated in South African society. South African sport officials assert that their system is changing and that there are no color barriers. This may be true on paper or in public forums, but it is not true in practice. Both in and outside of South Africa, protesting groups have been active in seeking equality but their efforts have not produced significant results. South Africa's ideological and cultural traditions reinforce secondary citizen status for nonwhites. To change these attitudes will take considerably more action than has been demonstrated thus far.

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> I, therefore, want to make it quite clear that from South Africa's point of view no mixed sport between whites and nonwhites will be practiced locally, irrespective of the standard of proficiency of the participants . . . we do not apply that as a criterion because our policy has nothing to do with proficiency or lack of proficiency.[1]

EX-PRIME Minister Vorster and his colleagues in the South African Government have provided the world with the most longstanding political conflict in international sport. In South Africa, nonwhites, no matter how "proficient," could not compete with white South Africans inside South Africa and a nonwhite had not represented South Africa internationally until recently. In addition, South Africa used its influence to keep "undesirable" foreign players from competing there. The Maoris (a nonwhite New Zealand group), Basil D'Oliveira (the South African cricketer playing in exile in Britain), and Arthur Ashe are among those "undesirable" athletes kept out of South Africa until the early 1970s.

This study will present several themes prominent in the history of South African sports and sports policy: (1) why South Africa was singled out for international criticism; (2) the integral importance of sport in South Africa; (3) "tradition" and law as they affect sport in South Africa; (4) their defense of this policy; (5) forms of protest against sports policy inside South Africa; (6) nonwhite opinion in South Africa; and (7) forms of international protest and resultant changes in South African sports policy.

WHY IS SOUTH AFRICA SINGLED OUT FOR SUCH CRITICISM?

South African governmental and sports officials invariably ask, "Why single out South Africa when the world is ridden with nations that exercise domestic political repression?" In 1959, Avery Brundage, the President of the International Olympic Committee (I.O.C.) had said:

> In an imperfect world, if participation in sport is to be stopped everytime the laws of humanity are violated, there will never be any international contests.[2]

In fact, Brundage said this at the very I.O.C. Session during which he knew that the Soviet Union was going to raise the question of South African discrimination in sports for the first time.[3] However, there is an essential difference in the case of South Africa. In South Africa, the sports policy was intricately linked to the political system—a political system that has institutionalized racism in all aspects of life, including sports. This is the apartheid system.

In other nations where political repression is a fact of life there is no evidence that one racial group has been excluded from participation in sport. If an athlete has been banned from a nation's competition because of his political convictions, he has the ability to change those convictions. In South Africa, a black cannot become white.

A great deal of time passed before the South Africans themselves were able to realize how their own form of repression differed from

1. Prime Minister John Vorster, address to Parliament, 11 April 1967, from *Report of the I.O.C. Commission on South Africa* (Lausanne: I.O.C. 1968), p. 68.

2. Speech to the 55th Session of the I.O.C. in Munich, 23 May 1959, from *The Speeches of President Avery Brundage* (Lausanne: I.O.C., 1969), p. 42.

3. *The Times*, London, 20 May 1959.

others and why they were the targets of such a massive international protest. The first acknowledgement of such a realization was a page-one editorial in the *Rand Daily Mail* (Johannesburg) following South Africa's exclusion from the 1970 Davis Cup:

> Nothing could have illustrated more sharply the fact that it is racialism, not politics, that is causing our isolation in sport. . . . The point is that there is an essential difference between politics and racialism. The one concerns the general manner in which a country orders its political affairs; the other amounts specifically to a denigration of a portion of the human race.[4]

THE IMPORTANCE OF SPORTS IN SOUTH AFRICAN LIFE

When the I.O.C. Commission to South Africa was in the process of completing its investigation into charges of racial discrimination in South African sport, Lord Killanin, the head of the Commission (and now I.O.C. President), said he was "amazed" at the extent to which South Africans go out for sports. At that time, he said, "South Africa is obviously a very sports-minded country."[5]

According to South African exiles Dennis Brutus, Chris de Broglio, and Peter Hain, sports approaches the status of a national religion in South Africa.[6] These men have been among the primary leaders in the movement for integrated sport in South Africa. In surveying the press of South Africa, especially after 1964, sports stories were as likely to be found on page one as in the sports sections of the newspaper. This was especially true when South Africa was involved in international competition.

Sport takes on greater importance in the international context than domestically for it is with international sports competition that South Africa is able to measure itself against the rest of the world. South Africans view international events as having importance far beyond the sports field. *Die Volksblad* of 28 October 1969 said, "every international success of South Africa is a blow for our sport and against our political enemies."[7] *Die Burger*, at the time of South Africa's sports controversy with England over the 1969–70 Rugby Tour and the 1970 Cricket Tour, said that South African players had an extraordinary responsibility to influence British public opinion in favor of South Africa.[8]

Since May of 1970 when South Africa's isolation was virtually complete, the South African government has created numerous "new sports policies." Minister of Sport Koornhof announced these policies, called "multi-nationalism" in 1971 and, in 1976, "Multi-racialism." The latest version allows white teams to compete with nonwhite teams at all levels only on Koornhof's permission. However, league and club teams were to remain segregated. Black sports officials rejected the "changes" as a perpetuation of multinationalism. But the fact that the Vorster regime would go to such lengths demonstrates the importance it places on sport and inter-

4. *Rand Daily Mail*, Johannesburg, 25 March 1970.
5. Ibid., 12 September 1967.
6. Interviews with Dennis Brutus, 3 February 1970, Chris de Broglio, 18 March 1970, Omar Cassem, 22 March 1970, Peter Hain, 14 April 1970.
7. *The Times*, London, 19 September 1969.
8. C. Legum and J. Drysdale, *Africa Contemporary Record, Annual Survey and Documents, 1969–70* (Exeter: Africa Research Ltd., 1970), p. B287.

national competition. South African officials see a direct association between sport success and prestige in international affairs.

Many whites in South Africa would like to see nonwhites banned as spectators as well as being banned as participants. Leaders of the non-racial sports movement believe that the overriding reason for this desire is that perhaps it is only as spectators that nonwhite South Africans may express their true feelings about apartheid in sports. While numerous nonwhites are hauled out of segregated sports associations to defend apartheid in sports to international sports bodies, as spectators, these same nonwhite South Africans invariably cheer wildly for the side opposing South Africa and, at the same time, boo the South Africans.[9] Nonwhites have also mounted several successful boycotts of apartheid events that have meant the difference between profit or loss for promoters.[10] Thus, sport is a vehicle by which nonwhites are able to express their frustrations against apartheid sports.

It is a well established fact that sport was important to white South Africans. However, South Africa's troubles in sport really began when the nonwhites realized that international sport could be very important for them, also. This realization surfaced in the 1940s but did not really become a factor until the late 1950s. Once these nonwhite sportsmen united in a common cause, the course of South Africa's international sporting relations was challenged time and again. These phenomena led eventually to the country's virtual isolation from international sport competition.

9. Ibid.

10. *The Times*, London, 2 September 1955.

TRADITION AND LAW IN SPORT IN SOUTH AFRICA

In South Africa, a combination of "traditional policy" and law regulates sport. There are no laws banning mixed sports participation in South Africa. In fact, until 1956 there were no major Government policy statements on sports.

The national sports organizations were the ones who enforced a color bar and, thus, gave no need for government policy. It was not until recognition of the white South African table tennis body was withdrawn by the international federation in 1956 that any meaningful challenge to apartheid in sports was raised.

Dr. Donges, the Minister of the Interior, entered at this point to spell out the traditional policy. There were seven basic points:

1. White and nonwhite sport must be organized separately.
2. There could be no mixed sport within South Africa's borders.
3. The mixing of races in teams going abroad should be avoided.
4. International teams visiting South Africa should respect the Union's customs, as South Africa would respect theirs when playing abroad. This meant that international teams could not visit South Africa if they had nonwhite members.
5. Nonwhite sportsmen from abroad could come to South Africa to participate against South Africa's nonwhite members.
6. Nonwhite organizations seeking international recognition should do so through the already recognized white bodies in their code of sport.
7. The Government would not issue travel documents to nonwhites who seek to change South Africa's traditional racial divisions by squeezing South Africa out of international competition.[11]

11. *The World*, Johannesburg, 11 April 1969.

With only a few modifications between 1956 and 1979, these became the major tenets of South Africa's extension of apartheid into sports.

Any changes that took place were the result of isolation in sport. However, these changes have not drastically altered sports apartheid. At local and provincial levels, sports remain strictly segregated. The most recent "new sports policy," announced by Koornhof in 1976, as a result of the African boycott of the Montreal Olympics, was denounced by South African black sports leaders as nothing more than multinationalism and separate development in a new package.

In fact, one year after this statement, Koornhof (who was elevated to the post of Minister of Plural Relations in October 1978) reassured National Party leaders that integrated teams at the club level were against the policy of the Government. He said that in the year following the 1976 "new Policy," there had been only 56 cases of individuals who competed on mixed teams in more than 1,800 events with more than 500,000 participants. That is, the Government had been more than "99.9955% successful" in applying the apartheid policy in sport.[12] Meanwhile, Mr. Koornhof's pledge to equalize Government sports subsidies for blacks and whites was far from being fulfilled. In 1977, the 4.4 million whites received 180 times more per capita expenditures than the 18.6 million blacks.[13]

In an interview, Omar Cassem, an exiled leader of the South African Non-Racial Olympic Committee (SAN-ROC) now living in London, revealed how these policies affected nonwhite sports proficiency in South Africa:

> In strictly sporting terms, we had no control of good facilities as these were all controlled by the white sports organizations. Even the facilities we had were not adequate because so many of us wanted to play. I know some great cricket and soccer players who only played every three weeks because of the lack of facilities. It was amazing that they were as good as they were.
>
> By not being able to compete against whites or international teams, we were not able to develop the subtle points of our game or compare styles with the white stars. In my time, it was the sports organizations that kept us out. Now it is primarily the Government.
>
> Another factor was that we had to obtain permits to play outside our home areas. How many of us could bother to do that? Too few!
>
> When we were finally banned as spectators in so many areas, my god—we could not even watch the bastards play to see their technique without getting a permit from the Government.
>
> In non-sporting terms, we had no where near as much leisure time to practice—even if we had the facilities. That went with economic self-sufficiency, and damned few of us fit that bill.[14]

As Mr. Cassem pointed out, mixed audiences are not allowed to view sports events in South Africa, except by Government permit. This was made official in February of 1965 under Government Proclamation no. R26.[15] However, this policy of spectator bans had been evolving gradually since the Blomfontein city council banned nonwhite spectators in 1955.[16] This meant complete

12. Muriel Horrell, *A Survey of Race Relations in South Africa, 1962*, p. 219.
13. *Rand Daily Mail*, Johannesburg, 30 August 1977.
14. *New York Times*, 13 March 1978.
15. Interview with Omar Cassem, 1 April 1970, London.
16. *Report of the I.O.C. Commission on South Africa*, p. 9.

segregation at all levels in sport —participant, administrator, and spectator.

Despite these handicaps, the nonwhites produced star athletes. However, frustrated by their inability to compete at home, many of these athletes had to leave to compete abroad as members of the teams of other countries. In 1947, Ron Eland left South Africa where he was completely unrecognized. By 1948, he represented England at the Olympic Games in weightlifting. Jake N'Tuli, who could not box for South Africa, became the British Flyweight Champion in 1952. David Samaai, a nonwhite tennis star from South Africa, played at Wimbledon in 1954. Four exiles who starred in soccer abroad were: David Julius, in Portugal; Steve Mokone, in Holland, Italy and Spain (Mokone later worked for the American Committee on Africa (ACOA) in the 1968 Olympic boycott movement); Kaiser Motaung, who became the Most Valuable Player in the United States Soccer League; and Albert Johanneson who starred for Leeds United, the English soccer champion.

Two weightlifters, Reg Hlongwane and Precious McKenzie, left South Africa and lifted in England where each became a champion. In nonwhite golf, the names of two South Africans are prominent—Edward Johnson-Sedibe, presently an English professional, and Sewsunker "Papwa" Sewgolum, one of the truly tragic figures in world sport. He received trophies outside clubhouses he could not enter because of apartheid. Owen Williams, Dik Abed, Ghulam Abed, Cec Abrahams and John Neethling all played professional cricket in England.

Perhaps the strangest case of all the South African athletes forced to compete abroad was Ronnie Van der Walt, who was a moderately successful white boxer until the Government decided that he was Coloured. He left South Africa in 1967 to box in England as he could no longer box against those he had been fighting against for so many years in South Africa.[17]

The fact that so many exceptional nonwhite athletes were forced to compete outside South Africa made it easier for sport officials to keep teams segregated since they could not find any nonwhite who was "qualified" to participate. Naturally, this would be the case if the best were not in the country!

Discrimination in South African sports also finds a place in sports administration. The structure of South African sports, in simplistic terms, follows this diagram:

17. *The Times*, London, 2 September 1955.

ADMINISTRATIVE STRUCTURE OF SOUTH AFRICAN SPORTS

White sports	*Some nonwhite sports*	*Nonracial sports*
South African Olympic Committee	No equivalent body	SACOS SAN-ROC
National Sports Federations (affiliated to international federation)	National nonwhite sports federations (affiliated to corresponding white body)	National nonracial sports federations (unaffiliated, but seeking international recognition)

Provincial sports associations (affiliated to national white federations)	Provincial sports associations (affiliated to national nonwhite federations)	Provincial sports associations (affiliated to national nonracial federations)

Through 1963, when the I.O.C. put South Africa on notice that it would have to end discrimination in sports, the middle group was nonexistent. By 1964, sports administrators of the white federations decided to offer affiliation to the nonracial bodies. This offer included financial aid, training and coaching, the promise of international competition in separate teams, and representation on the national white body. In theory, this seemed like a major breakthrough and was hailed as such by the I.O.C.

In reality, what affiliation meant was that the nonwhite bodies would be represented on the national white federation as the equivalent of a provincial association. In other words, if there were ten provincial associations making up the white national federation, the nonwhite affiliate would then have one eleventh of the vote. In addition, in most cases such representation would be through a white official chosen to represent the nonwhites. Finally, affiliated federations would agree that competition in South Africa would be carried on in strict segregation, initially at all levels, particularly at the club and provincial levels.

Therefore, for the nonracial bodies to accept affiliation would mean the acceptance of apartheid in sport —and fighting this was the essence of their existence. The result was that no nonracial bodies affiliated with the white federations. But, several nonwhite groups broke away from SAN-ROC to affiliate with the white federations for the opportunity for international competition. These affiliates have been vigorously employed by white sports officials to show their international colleagues that they do not discriminate.

Perhaps of more symbolic than strategic importance is the traditional use by South Africa of the Springbok colors and emblem. These are awarded to athletes representing South Africa in international contests. In sports, they have apparently become the very symbol of the purist apartheid system. So guarded are they that even when South Africa agreed to send an integrated team to the 1968 Olympics, the Verkramptes, the extreme rightwing faction of the Nationalist Party, insisted that a new badge be made for the entire team so that nonwhites could not wear the coveted Springbok emblem.[18] By November 1978, pressure had become great enough for six black runners to become the first blacks to receive the colors![19]

If it were not so tragic, it would almost seem humorous that South Africa is so principled in its fight against integration. When a rare nonwhite sportsman from overseas does compete in South Africa against whites (some Japanese since 1963, the Iranian Davis Cup team in 1969, Sir Ade Ademola as a member of the I.O.C. Commission in 1967, and several others since South Africa's exclusion from the Olympic Move-

18. *Muriel Horrell, A Survey of Race Relations in South Africa*, 1962, p. 21.
19. *The Times*, London, 13 April 1968.

ment in 1970, including Arthur Ashe), they are classified as "honorary whites."

DEFENSE OF SPORTS POLICY

South African sports administrators are, generally, very defensive about these policies. Their case usually contains the following points: The national federations have no color bars in their constitutions (while it is true that these bodies struck such color bar clauses from their constitutions between 1959 and 1963, it remains a fact that their membership is 100 percent white); South African sportsmen are not responsible for and cannot change government policy (in the process of being excluded from international participation in most sports, many South African sportsmen have spoken out against apartheid in sports); and, players are chosen strictly on merit; that is, there are only a few qualified nonwhites available to represent South Africa (the number of outstanding nonwhite exiles mentioned above does not support this argument).[20]

Other defenses used by the South Africans are: That nonwhite bodies are able to affiliate to the national white bodies, and that isolating South Africa hurts the nonwhites more than anyone else.

As with its broader societal policies, South Africa's defense of its sports apartheid policy reflects its ideological and institutional underpinnings. For example, the regime says that blacks do not share power because they are not as qualified as whites. Further, the regime says that blacks do not need direct representative bodies since various white ministries are "responsible" for black affairs. A final example is that the South African regime maintains that anti-apartheid efforts in the economic area will hurt black South Africans more than any other racial group.

20. *Rand Daily Mail*, Johannesburg, 3 November 1978.

FORMS OF PROTEST OF SPORTS APARTHEID INSIDE SOUTH AFRICA

South Africans had, basically, three ways they could approach the issue of the extension of apartheid into sports. First, they could accept the policy. This category fit the early stages of the struggle for change (1946–64) since almost all sportsmen and administrators were white. No evidence was found that any nonwhites were totally acquiescent, however.

The second approach was one of compromise. This policy included the granting to (and acceptance by) nonwhite sports associations of financial assistance, training facilities, the promise of international competition, and some form of representation on the white national federation if these nonwhites associations affiliated with the national white federation. However, by both groups doing this, the apartheid system in sport was accepted and maintained intact, save for whatever form of representation there was in the national white federation for the nonwhites. Into this category would fit many white sportsmen and administrators in the middle period of the struggle for change (1964–70).

The final approach was one of peaceful resistance; that is, the refusal to accept the extension of apartheid into sports and an active effort to reverse this course until there was complete equality for whites and nonwhites to compete together both inside and out of

South Africa. No whites took this view in the early and middle periods. A slight softening of opinion occurred in 1970 after South Africa was expelled from the Olympic Movement and the 1970 Cricket Tour of England was cancelled. A substantial number of nonwhites took this position especially after the formation of the South African Sports Association (SASA) in late 1958, and the South African Non-Racial Olympic Committee (SAN-ROC) in 1962. SAN-ROC, itself in exile since 1965, became the dominant force in what has become known as the non-racial movement for sports in South Africa.

The South African Council on Sport (SACOS) has now assumed the internal leadership of the non-racial sports movement. Many national organizations recognize it as the legitimate governing body of sport in South Africa. It is an Associate Member of the Supreme Council for Sport in Africa, the group responsible for sports in Africa.

NONWHITE OPINION IN SOUTH AFRICA

It is difficult to accurately determine nonwhite opinion in South Africa on the question of South African sports policy. If one listens to white sports administrators and to nonwhite administrators of bodies affiliated to the white national federations, then it would seem that nonwhites have become increasingly more satisfied with the compromises worked out by the white administrators in conjunction with the South African Government.[21]

However, if one listens to SACOS or to protest groups outside South Africa, then it would seem that nonwhites South Africans are very dissatisfied with the compromises worked out. They claim such compromises are merely tokenism that has been undertaken to reverse isolation in international sports, and not because of some newly found moral need to end apartheid in sports. SAN-ROC claims that it represents nonwhite opinion in South Africa because, being in exile, they are the only free voice to say what they believe about the situation.[22]

FORMS OF PROTEST AGAINST SPORTS APARTHEID OUTSIDE SOUTH AFRICA

The protest movement against apartheid sports outside South Africa has developed rapidly since the formation of SASA in South Africa. It has manifested itself in several forms: outspoken members of the clergy giving the movement a moral tone; many union members, especially in New Zealand, Australia and England, threatening to cut off their services if their national team visits South Africa or if a South African team visits their country; politicians, especially in England and the United States, taking sides on the advantages and disadvantages of sports contacts with South Africa; direct action demonstrations against South African touring teams; united actions on the part of African nations in opposition to South Africa's participation in international events; threats of and actual boycotts by the Socialist countries when they were scheduled to compete against South Africa, especially in tennis; representations made to the I.O.C. concerning dis-

21. Interview with Dennis Brutus, 3 February 1970, Denver.

22. *Report of the I.O.C. Commission on South Africa*, p. 14.

crimination in South African sport; and, finally, the formation of pressure groups concerned specifically with South Africa's participation in international sports in New Zealand, Australia, England, and the United States. The South African Non-Racial Olympic Committee, (SAN-ROC) so essential to the protest movement inside South Africa, has also been a catalyst for action outside South Africa, especially since it went into exile in London in 1965.

According to Chris de Broglio of SAN-ROC, the history of the movements outside South Africa can be broken into two periods. First, the protest centered on discrimination in South Africa. Second, as the pressure groups grew, concern began to be equally centered on the effect that such a contact would have on the domestic relations of the nations involved in competition with South Africa.[23]

There are two schools of thought concerning those who oppose South Africa's apartheid sports policy. The first position argues that, though apartheid is a despicable policy, only through continued sports contact will South Africa be made to change her sports policy. For example, England demonstrates through sport success to South Africa that a multiracial society is a viable alternative to apartheid, South Africa will change its apartheid policy—at least, in sports. Thus, according to this argument, South African players will visit England while on a specific sports tour, and be so impressed by multiracialism, both on and off the sports field, that they will return to South Africa as apostles of multiracialism. This shall be called the "bridge-building" approach. Sports administrators outside South Africa, especially in tennis and golf, are among its advocates.

The second school of thought argues that, by continuing sporting contacts with South Africa, the nation involved in such contact is actually condoning and supporting apartheid, and that South Africa will never change with the bridge-building approach. This group argues that the only way to cause meaningful change in South African sports policy is by isolating it from the international sports community. Thus, according to this argument, the white population of South Africa, for whom sports are so important, will demand that the government change the sports policy in order to avoid isolation. Among its advocates are SAN-ROC, SACOS, and the Supreme Council for Sports in Africa.

CONCLUSION

When South Africa's proposed concessions for continued participation in international sports in general, and the Olympic Movement in particular are scrutinized, it becomes clear that no real cracks in the sports apartheid structure were made prior to South Africa's isolation.

From 1948 to 1969, there were five incidents where white sportsmen or white sports officials spoke up in favor of a change in the apartheid sports policy. This was during a period of considerable international competition for the South Africans when, presumably, they would have been witnessing the merits of multiracial societies through the bridge-building approach. The meager results do not uphold this approach.

Beginning in December 1969,

23. Interview with Chris de Broglio, 18 March 1970, London.

with total sports isolation in sight, three important South African officials called for major policy changes in sport. When isolation was not only in sight but a fact in May 1970, the calls from white sportsmen and officials were not only for reform but for sports integration. But it took isolation to get their sportsmen to talk about multiracial sport. This bore out what the leaders of SAN-ROC had said all along, but most sportsmen refused to believe. These sportsmen were left with no alternative as a result of the actions of the international sports bodies: if they wanted to resume competition, the cost would clearly be the elimination of apartheid from sport.

Whether these calls for change yielded significant change is open to serious debate. Certainly there is importance in the calls themselves. However, even now, integration in sport in South Africa is far from reality. Until there is multiracialism at the club level in sports, any breakthroughs at the national level are only gestures—no matter how important they may seem. The new term, "multinationalism," means little as long as the system itself is still based on apartheid.

Book Department

INTERNATIONAL RELATIONS

KURT GLASER and STEFAN POSSONY. *Victims of Politics: The State of Human Rights*. Pp. xxiv, 614. New York: Columbia University Press, 1979. $30.00.

Glaser and Possony's *Victims of Politics* is very timely. Although, since time immemorial, victims—the essence of wronged innocence—have been used to measure the world's justice, yet as never before victims have become key to all American ethical discourse. Four reasons help explain this.

First, the moral universes of the radicalism and liberation movements of the 1960s and 1970s—which in main were unabashedly Manichean—divided humanity into innocent victims and America, universal victimizer. Second, superseding that simplistic ethical world view, Cambodia, Ireland, the Near East, and Uganda—to choose a few of the most significant examples—instructed Americans about the reality of worldwide processes of victimization which were beyond the power of the United States to cause or to prevent. Third, Solzenitsyn's *Gulag Archipelago* singularly made vivid in our minds the continuing presence in our world of state totalitarianisms that tolerate no dissent and aggressively harness the bodies and minds of its citizens to its pyramids. Fourth there was the declaration of Carter's Human Rights Policy.

On the matter of victims, Glaser and Possony's work has no substitute. No single volume—or even several volumes in combination—provides an alternative survey of the world's political victims. Also highly praiseworthy, this double-columned, six hundred page work is consistently well written. At no point do the authors yield to jargon, schemes of quasisystemization or transhistorical dialectics.

The work is divided into five main parts. Part I, "Ethical and Legal Perspectives," examines definitions of human nature, human rights as defined by international law, and Nuremberg principles in light of their ability to provide a perspective on types of victimization. Part II, "Groups and their Interaction," suggests inherent group processes—their behavior, stratification, and interaction—which account for the formation of, and discrimination against, minorities. Part III, "Groups Involved in Discrimination and Oppression," specifically addresses the issues of groups suppressing groups. Three separate sections are devoted to such matters as oppression of nationalities, ethnic groups, religious groups, race discrimination, color prejudice, outcast groups, as well as "class, caste and sex discrimination." Part IV, "Functional Areas of Discrimination," surveys "discrimination against entire cultures," "language, religious, and educational discrimination," "economic discrimination," "legal discrimination," and "polit-

ical discrimination." Part V, examining extreme forms of discrimination, contains separate chapters on "mass expulsions and forced migrations," "slavery," "forced labor," "torture," "brainwashing in East and West," "extermination of primitive communities," "genocide."

Naturally, a work of these dimensions invites some criticisms. Unlike the convenient three part index (divided into persons, places, peoples and languages, and critical subjects), the bibliography is an unannotated, thirty page, alphabetical listing of works. Eliciting the criticism of some will undoubtedly be the authors' consistent criticism of Communism and communist regimes, which will be understood as mirroring their ties to the Hoover Institution on War, Revolution, and Peace. In turn, the authors' general sympathies for Israel as well as their broad acceptance of the positions of the "new" ethnicity will draw the criticism of others. More general yet will be the criticism that victims and the processes of victimization ultimately cannot be equated exclusively to political functions and political rights; but as victims of economics, pollution, and abortion suggest, the process of victimization has transpolitical roots in vast material forces and intellectual ideas.

These criticisms, be they valid or invalid, are not intended to subtract from the worth of this uniquely comprehensive work, or yet its bold attempt, to help lay the groundwork for consciously and intelligently putting human rights at the center of our national political discourse. Although most will not venture to read this work cover to cover, there is an overwhelming power to the book, which reads like an encyclopedia of man's evil to man.

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CAREY B. JOYNT and PERCY E. CORBETT. *Theory and Reality in World Politics*. Pp. ix, 147. Pittsburgh: University of Pittsburgh Press, 1978. No price.

CHARLES LOCKHART. Bargaining in International Conflicts. Pp. viii, 205. New York: Columbia University Press, 1979. $12.50.

There is little in common between these two additions to the literature on world politics beyond the desire of the authors to explain some of the complexities of international relations. *Theory and Reality in World Politics* is elegantly written by two distinguished professors with decades of experience behind them. Carey Joynt and Percy Corbett do not conceal their own abhorrence of war or preference for a just international order in exploring a subject seemingly dominated by conflict.

Bargaining in International Conflicts is by an erudite man commencing his career. Charles Lockhart is reticent about his personal values as he analyzes the political components of international conflicts and the bargaining they entail. Though both volumes are slim, Joynt and Carey give us a wide sweep born of deep knowledge which is immensely satisfying. Lockhart's examination of a single process from different perspectives provides another kind of intellectual stimulation. We can use both approaches though individual preferences may differ.

A critical survey of major theories in world politics is welcome for itself. Joynt and Corbett give us more because they test theories of state action against the reality of the nuclear age. An opening chapter on ethics confronts the well known claims of the Realpolitik school of thought with the fact that all state decisions are ultimately based on and judged by value systems, and with the question "what [state] ends indeed are so precious that they justify the destruction of whole societies?" (p. 15). There follow two chapters on the ideas of justice and the growing role of "law-like norms" in relations between states.

The contributions of the behavioral sciences and systems theory to the field —especially to the study of international conflict—are admirably summed up with references to the major exponents of these theories. But we are warned

against hasty evaluation of empirical literature and reminded that history "is the laboratory in which we work" (p. 115). All who regret rivalry between the scientific and historical approaches must agree that "history and science in the study of politics are united by necessity in a permanent and inextricable alliance" (p. 118). The authors do not present Marxist interpretations of international politics but briefly consider some European and Soviet comments on American theory. Finally, they describe deterrence theory, deploring a tendency to confine strategic analysis to military/technological matters. Their call is for more accurate theoretical understanding of the real world so that there can be a conscious attempt made to "build common institutions on the limited willingness of states to recognize common interests in international security" (p. 97).

Bargaining in International Conflicts begins with a review of bargaining theories in economics and psychology, finding them inadequate for the study of international conflicts. Drawing on specific "severe conflict episodes"—especially the Anglo-French Fashoda Crisis, 1898, the Franco-German Agadir Crisis, 1911, the Berlin Crisis 1958–62, and the Cuban Missile Crisis, 1962—Lockhart analyzes the bargaining process between states in conflict. At the core of this process he sees three subsets: Interpretation of information, in which the risks of misperception are high and the need for clear communication between statesmen crucial; Decision making, in which domestic pressures, previous experience, and estimates of international dangers and opportunities influence statesmen; Strategy for managing the situation, in which a domestic phase is separate from but intertwined with an international phase.

Lockhart relates the different subsets and topics in a conceptual framework by developing an "analytical chronology of bargaining" in terms of four phases: Intolerable violation; An act of resistance; Confrontation; Accommodation. While all "severe conflict episodes" are seen to begin "when some change of existing circumstances creates a situation in which one nation must confront another" (p. 139), each differs as to cause as well as in the duration or direction of the four phases. By comparing the actions governments took in different situations of crisis, Lockhart underlines the influence of national/personal perceptions and domestic pressures on the dilemmas faced and choices made.

Lockhart has examined the bargaining between roughly equal "great powers" in conflict. He could further apply his model to the many examples of conflicts between states of less than "great power" status, and bargaining between international parties with obviously assymetrical power resources. Perhaps he could also present his conclusions in a style easier to follow than his present book.

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VOJTECH MASTNY. *Russia's Road to the Cold War: Diplomacy, Warfare, and the Politics of Communism, 1941–1945.* Pp. xix, 409. New York: Columbia University Press, 1979. $16.95.

Professor Vojtech Mastny, who has previously published a study of *The Czechs under Nazi Rule* with the Columbia University Press imprint, and who teaches history at the University of Illinois (Urbana-Champaign), now turns his research to the subject of Soviet diplomacy and the Cold War. While his new book sketches in backgrounds and traditions of Russian and Soviet foreign policy (not always accurately), its main concern is with the period from the German attack on Russia in June 1941 to August 1945, the time of the Potsdam Conference.

The presentation of this central portion of the work is careful, detailed and, in general, balanced—if one excepts a perhaps undue attention to Czechoslovakia or an occasional outburst such as the characterization of the Carpathian Ukraine as "the wretched piece of land." Sources are utilized skillfully even as the

author frankly announces: "Admittedly, the Russian sources are a mere trickle, compared with the torrent of American, British, and German documentation."

In all truth, this reviewer does not find that much new ground has been broken. For example, on such a well-known matter as the "percentages agreement" of 1944, arranging for Soviet and Western spheres of influence in central and southeastern Europe, described by Churchill, nothing very substantial is added except that Stalin was not so "passive" as has been believed. More interesting are the author's views and interpretations—for instance, that as a consequence of the barter of percentages, the West needlessly lost Hungary.

On the subject of the Cold War and its origins, the assignment of responsibility is set forth in a reflective paragraph: ". . . in their zeal to try to condemn the United States in the court of history, the revisionists tended to obfuscate the role of the other defendants; they especially tended to exonerate the Soviet Union by default. . . . Relentlessly dissecting and censuring the American policies, they were conspicuously less adept at progressing beyond mere assumptions about the Soviet ones. Usually these experts and dilettantes in the field of United States foreign relations could not read Russian, much less the more exotic eastern European languages. In neglecting the Soviet side of the story, they could always rationalize that the pertinent sources remained out of reach."

Professor Mastny's appraisals of key figures of the time are interesting: for example, his attitude towards Bene's and Horthy, a mixture of admiration and contempt for both.

With all the reservations expressed above, this monograph remains an important contribution to the issues of the time, diplomatic and otherwise.

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CHARLES E. MORRISON and ASTRI SUHRKE. *Strategies of Survival: The Foreign Policy Dilemmas of Smaller Asian States*. Pp. viii, 346. New York: St Martin's Press, 1979. $27.50.

Illustrating the relationship between weak and strong powers, two university professors have collaborated in briefly setting forth the situation more or less currently found in Korea, Vietnam, Thailand, Malaysia, Singapore, Indonesia, and the Philippines, devoting a chapter to each. However, the East and Southeast story is not fully told since Taiwan and the states of Burma, Laos, and Cambodia are not included. In textbook fashion, each chapter opens with a rather concise historical review of the not too well known salient facts leading almost up to the present, and the chapter notes indicate a great amount of research in the latest materials. Somewhat more attention seems to have been paid to Korea, Vietnam, and Indonesia, and the least to Singapore.

As between China and/or the Soviet Union on the one hand and the United States and/or Japan on the other, an answer is attempted to the question of how the developing moderation in their relations affects the ability of a smaller state to achieve national security and other foreign policy goals. Over forty years ago, this reviewer noted, with respect to a large but then militarily weak China, that when the great powers cooperated, their aggressive tendencies were held in check, and the results were beneficial to China while their rivalry proved deleterious to her. Here it is similarly argued that if large power relations are cooperative or only mildly competitive, this will discourage large power involvement in local conflicts while their rivalry will have the opposite effect. Indonesia benefited from large power detente while the Korean proverb is quoted: "When the whales fight, the shrimp suffers."

The authors conclude that the smaller states must accept large power involvement as a fact of life but if the small country has a tight hold on its own domestic situation and does not delve too deeply into power politics, big power pressures can be resisted, territorial in-

tegrity maintained, and the ruling elite often retained in power. The Association of Southeast Asian Countries (ASEAN) has also given its members a sense of collective political defense in dealing with the new uncertainties and thus contributed some stability to Southeast Asia.

While each chapter is interesting and fairly clearly written, the reader should take into account all the various factors involved, analyze them and come to his own conclusions. Definitely worth studying.

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WILLIAM E. RATCLIFF. *Castroism and Communism in Latin America, 1959–1976: The Varieties of Marxist-Leninist Experience*. Pp. vii, 240. Washington, DC: American Enterprise Institute for Public Policy Research, 1976. $4.00.

MARIO LLERENA. *The Unsuspected Revolution: The Birth and Rise of Castroism*. Pp. 324. Ithaca, NY: Cornell University Press, 1978. $12.50.

Llerena was one of the leaders of the July 26 Movement's Committee in Exile in the period immediately preceding the Cuban revolution. The book is an autobiographical account of Llerena's experiences as a middle-class liberal turned revolutionary. Well written and informative, it is a welcome addition to the material on the Cuban revolution.

The central thesis of the author is the "betrayal of the revolution," and he spends a considerable amount of time on the relationship between Castro and the Communists, arguing that Castro had made a secret deal with the Communists early on, and cynically misled his naive, liberal supporters, such as Llerena himself. According to Llerena, this was a marriage of convenience between a psychopathic individual and the Communists.

Inevitably, most of Llerena's evidence is circumstantial, and his argument that liberal reform and not revolution was what Cuba needed is nowhere developed at length. Llerena's self-confessed naivete makes this book a useful source but an inadequate analysis.

Ratcliff's book offers almost no analysis whatsoever. It largely consists of a dull and unoriginal chronical of the actions of revolutionaries in Latin America during the period of the Sino-Soviet split and the height of Castroism. Almost no attention is given to the national context in which the revolutionaries operated, and consequently the reader is hard pressed to understand the source of the curiously nebulous threat posed by revolutionaries. It seems that Ratcliff sees Latin American revolutionary movements as being primarily the tools of the major communist powers. If this is the case, there is very little need to write about Latin America, since it is merely a stage where puppet revolutionaries dance to the string-pulling of their masters. The result is a book which is little more than a dreary catalogue of already-known facts about Leftist parties and groups.

Both Llerena and Ratcliff share a Manichean vision of the world in which the forces of darkness are controlled from Moscow and Peking. Consequently, neither author feels any need to analyze seriously and in detail the reasons that lead men and women in Latin America to engage in revolutionary struggle. But where Ratcliff has nothing new to add to our knowledge of Latin America, at least Llerena's testimony will continue for many years to serve as a valuable source on the Cuban revolution.

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MICHAEL SCHALLER. *The U.S. Crusade in China, 1938–1945*. Pp. xiii, 364. New York: Columbia University Press. 1979. $14.95.

Michael Schaller's *The U.S. Crusade in China, 1938–1945* is a narrative of American policy toward China during the Sino-Japanese War from 1937 to 1945. The book is divided into thirteen

chapters. Chapter one provides a historical background of American involvement in China and that country's internal development leading to the large scale Japanese invasion in 1937. Chapter thirteen deals with U.S. policy toward China immediately after Japanese surrender in 1945 with special emphasis on the Marshall mission. Chapters two through twelve concentrate on the war years from 1938 to 1945.

Schaller's research work is thorough and his use of data is judicious. He has demonstrated remarkable skill in organizing tedious details into a readable book explaining the complex relationship between the United States and China. He has given a careful description and analysis of the views of President Franklin D. Roosevelt, important cabinet members, and other influential officials in Washington on the China issue. In particular, he has examined the attitudes of American officials in China toward the Nationalist-Communist conflict, such as those of Stilwell, Gauss, Hurley, Wedemeyer, Miles, Davies, and Service.

The book contains a meticulous account of the rivalry between American officials, especially between those who supported Chiang Kai-shek and those who were sympathetic toward Mao Tse-tung. This affords the reader some insight into American foreign policy-making. It is a very useful book for the general reader, but it breaks no new grounds for specialists in Sino-American relations. Much of the book is based on readily available materials. It neither reveals new information nor offers any new interpretation. In essence, Schaller repeats the same criticisms of U.S. policy made by other authors, one-sided support of Chiang Kai-shek.

More importantly, the book suffers from the lack of an appropriate conceptual framework to study foreign policy-making in the United States. Schaller deals almost exclusively with the roles played by officials in the executive branch of the American government from the President down to junior diplomatic officers stationed in China. Other significant elements influencing the making of American policy toward China, such as the Congress, interest groups, political parties, the mass media, mass public opinion, and academia are given inadequate coverage, with the exception of a brief discussion of the "China Lobby." The book gives the impression that American China policy is made primarily on the basis of the input from the bureaucrats in the executive branch, although this is far from reality. In formulating his China policy, the President must consider the input from many other sources. Even in the analysis of executive attitudes there are many gaps. For example, Secretary of State Cordell Hull's role is not assessed, nor are the views of Truman and his advisers in the White House given close scrutiny.

Many authors have criticized American policy toward China during this period, but few come up with practical solutions. Considering the circumstances in China and the world from 1938 to 1945, President Roosevelt's policy of assisting Chiang and urging him to carry out necessary reforms was a sensible and realistic one. Had he abandoned Chiang or insisted on directly aiding the Chinese Communists over Chiang's objection, what would have been Chiang's reaction? What would have happened to China's war against Japan? There was no other non-Communist Chinese leader powerful enough to replace Chiang at the time. The Communists were not acceptable to the United States, and besides they were not strong enough to replace Chiang before 1945.

The main reason for our difficulty in China during this period was that our goal of a "strong, united, democratic China" was unattainable. The United States was trapped in China. We needed China to stay in the war against Japan, yet we could do very little to influence her internal development. China's destiny could not be changed by American policy. Many scholars do not seem to realize this fundamental fact.

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KARL F. SPIELMANN. *Analyzing Soviet Strategic Arms Decisions*. Pp. xv, 184. Boulder, CO: Westview Press, 1978. $16.00.

DANIEL TARSCHYS. *The Soviet Political Agenda: Problems and Priorities, 1950–1970*. Pp. 217. White Plains, NY: M.E. Sharpe, 1979. $20.00.

More than thirty years after the enterprise began in earnest in universities, research institutes, and government departments in the nations of the West, the study of Soviet politics remains problem ridden, uncertain in emphasis, sometimes exasperating in the qualified nature of its conclusions, yet immensely interesting. Three factors (at least) have contributed to this situation: the *continuity* evident in the radically centralized, secretive nature of Soviet government, the numerous elements of *change* which have marked the post-Stalin era as experienced by leaders and people both, and trends in Western social science, particularly in political science and sociology.

Continuity and change intertwine in the controversy over the adequacy of various "models" of the Soviet system. The classic "totalitarian" model, once virtually universally held, finds, in its pure form, few partisans today—the decline of mass terror, the apparent stabilization of committee rule at the top, have revealed its static elements. But only the adventurous and optimistic discard it wholesale, since so many of its elements—centralization of an extreme degree, the dominating, penetrating character of the state's relation to society—still persist.

Competing with elements of this model are the various approaches which stress elements of *pluralism* in Soviet politics, whether competition among "bureaucratic actors"—industries, ministries, party bodies—not responsible to broader constituencies, or interest-group politics which transcends these boundaries to include the desires and interests, even if unexpressed, of important groups of the larger population. If the study of Soviet politics has reached a certain maturity, it is one marked by the absence of the consensus which characterized its youth.

Both Tarschys' *The Soviet Political Agenda* and Spielmann's *Analyzing Soviet Strategic Arms Decisions* reflect the state of this "art," its strengths and weaknesses. Tarschys' focus is internal—the "agenda" of Soviet politics in high Stalinism (1950), at the midpoint of the Khrushchev years (1960) and in the Brezhnev era (1970)—based on an analysis of the content of the 612 editorials published by the authoritative *Pravda* in those three years. His findings, arrived at through an interesting mix of quantitative and qualitative methods, show a shift over the years from "survival problems" of basic production and supply of needed goods to more complex problems of quality, efficiency, and others characteristic of a better developed economy. Throughout, however, runs a thread of evidence which supports totalitarian and the more "bureaucratic" pluralist images of Soviet politics. In Tarschy's provocative summary (pp. 182–189), Soviet politics is so breathtaking in the sheer scope of *its* agenda because the society's extrapolitical "solution-capacity" (the market, free agreements among autonomous groups) is so small, relative to the West. The USSR is a society of "weak consumers," individual *and* institutional, who cannot compel their "suppliers" to perform, and hence require, for their survival and the system's, the continuous intervention of the central power, expressed in *Pravda's* constant scolding, praising, and commanding.

Spielmann's work attempts, with many well considered caveats to the reader, to penetrate even murkier depths—Soviet decisionmaking in the strategic arms sector—and along the way test the "fit" of three models of such processes to the SS-6 (first Soviet ICBM and launch vehicle for the first Sputniks) missile program. Obviously, the factors determining such decisions are not ones shared with the public by Soviet politicians and planners.

Spielmann's methods involve much

inference from a limited record. His reading of the evidence offers some support for *all* contending theories—that of the regime making decisions as a "rational strategic actor" on *purely* military considerations, as a "national leadership" with a country and its complex economic and organizational problems to "run" as well as military strategies to pursue, and (somewhat less so), having decisions "forced" upon it by the interplay of contending interests inside and without the military/security sector.

Both books underline the continuing and massive obstacles in the way of understanding Soviet behavior. Both also, in the very subject matter they treat, testify to the importance, to the "informed" foreign affairs community and the public at large, of continuing and intensifying our attempts to do so.

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C. H. MIKE YARROW. *Quaker Experiences in International Conciliation*. Pp. xxvii, 308. New Haven: Yale University Press, 1978. $10.00.

Quakers have always combined a special emphasis on the value of the individual with a concern (a significant Quaker word) for the well-being of the society in which they live. Thus their belief that there is that of God in every man and that this potential for good can always be released in appropriate circumstances has often found expression in the mobilization of plans for social reform. At the international level they have striven for a more peaceful world and in view of their individualism it is not surprising that their method of operation has been to try to influence some of those in positions of importance or authority. Their theory of international relations, it might be said, is reductionist in the extreme, seeing the workings of international society in terms of the perceptions and decisions of key individuals—and believing, too, in the ever present possibility of reconciliation.

This book is principally a record of three major ameliorative enterprises on which Quakers have embarked in recent years. It deals with their efforts to bring the two Germanys closer together during 1962–73, to heal the wounds of the Indo-Pakistan war of 1965, and to secure a negotiated end to the Nigerian civil war of 1967–70. In the first case a Quaker representative lived in Berlin throughout; in the second a mission of three spent six weeks in India and Pakistan; and in the third various Quakers paid periodic visits to both sides and to external centers where discussions regarding the war were taking place. In all of these the activity was essentially the same: listening to the parties, carrying messages between them, making and giving their own assessment of the situation and, eventually, making tentative proposals for its improvement. Those involved were always extremely careful to preserve the appearance as well as the reality of their impartiality, for only by so doing could the confidence of the parties be secured and maintained. It was an arduous and thankless task and one cannot but be impressed by the humility and high seriousness of those who, in accordance with their tradition, were trying to "speak truth to power." They recognized that they were operating at the margin of conflict but did not flag. And, in the author's judgment, their efforts may in each case have helped to produce a conciliatory end or atmosphere and, as such, was of value.

A final chapter of a theoretical kind wonders, among other things, whether the solution of some conflicts may require not just a change of individual attitudes but also of the structures of certain societies. This is an interesting recognition of the inadequacy, in some situations, of the traditional Quaker approach. But there is no sign here of an even larger question: whether the relations of states are conditioned by the requirements of the international society, which may sometimes push its constituents towards the sort of conflict which, for practical purposes, is beyond the improving reach of conciliatory-minded individuals.

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ASIA, AFRICA, AND LATIN AMERICA

GUY S. ALITTO. *The Last Confucian: Liang Shu-ming and the Chinese Dilemma of Modernity*. Pp. xvii, 396. Berkeley: University of California Press, 1979. $17.50.

This book is more than a biography of Liang Shu-ming. It is an exposition on Chinese thought and culture. As such, it helps immeasurably to explain China and the Chinese from imperial China to Republican China to Communist China. In Liang Shu-ming, a modern day Confucian sage, Guy S. Alitto has captured the essence of Chineseness.

Born in the same year as Mao Tsetung, Liang lived through the tempestuous times of the Republican Revolution, the Warlord period, the Northern Expedition, the Communist Revolution, the Japanese War, the Chinese Civil War, and the Chinese Communist state. He has been lauded and respected and vilified. Throughout his life he has preserved and espoused the national spirit of China, succumbing neither to Western democracy nor fascism, nor to Marxism-Leninism in his search for a solution to China's problems of military, political, and industrial inferiority.

Liang Shu-ming's grand design for China was a utopian agricultural society which he hoped to attain through "rural reconstruction." He rejected Kuomintang bureaucratic hierarchy and Communist coercion, but placed his reliance on the innate goodness of man and *li-hsing*, reason. *Li-hsing* is distinct from intellect in that to find the right answer is intellect, but to want to find the right answer is *li-hsing*.

Liang's experiment in rural reconstruction in the 1930s was remarkably similar to that which the Communists later established; the major exception being that Liang denied classes in Chinese society and abhorred struggle, and the Communist primary thesis is class struggle. Throughout his life, Liang Shu-ming sought to avoid politics. Eventually, however, he conceded that the struggle between the KMT and the CCP take a leading role in a third force in Chinese politics, the League of Chinese Democratic Political Groups. This Democratic League played an exciting role in its brief and unsuccessful attempt to prevent full scale civil war between the rival major parties.

Liang Shu-ming stayed in China after the Communist victory in 1949, and was named a delegate to the People's Political Consultive Congress, where he found himself an adviser and counselor to Mao Tse-tung. Mao had always been somewhat in awe of Liang, and even while he vilified him during the mid-1950s (Mao Tse-tung, "Criticism of Liang Shu-ming's Reactionary Ideas," in *Selected Works* vol. v, 1977), he expressed the hope that Liang would be reelected.

Liang's final trumph came in the 1970s when he was ordered to write an essay criticizing Confucius. Liang refused and when threatened observed that he was eighty-three years old and had nothing to fear.

The Last Confucian is a manifestation of China and the Chinese people, and Guy S. Alitto has presented it superlatively.

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SHLOMO ARONSON. *Conflict and Bargaining in the Middle East: An Israeli Perspective*. Pp. xi, 448. Baltimore: Johns Hopkins University Press, 1979. $18.95.

In *Conflict and Bargaining in the Middle East*, Shlomo Aronson unravels and dissects the complex Arab-Israeli conflict in the course of an historical treatment of the period from 1949 to 1978. As indicated by the book's subtitle, he is offering us "an Israeli perspective," which is true in two senses: (a) one of the main (and best developed) themes of the book is the overlap between Israeli domestic politics and foreign policy on the Arab-Israeli conflict, and (b) the author is presenting his own personal interpretations with a rare combination of analytical detachment

diverging frequently from accepted Israeli thinking. Of particular interest are the reassessment of Ben-Gurion's leadership and legacy (based mainly on M. Bar-Zohar's recent authoritative biography), and the growing relevance of the nuclear factor.

Dr. Aronson's credentials permit him to present a unique blend of journalistic realism and academic rigor. In the length of its time-frame, the range of variables dealt with, and the level of detail, the study is indeed an ambitious venture—perhaps too ambitious for a single, coherent work. The avowed triple aim of the book is further complicated by the intention to provide material for "theoretical, yet empirical" (?) generalizations to be drawn in no fewer than eight additional areas of study (p. vii). Some readers will, no doubt, be overwhelmed by Aronson's attempt to cover almost all the angles of the conflict and, further, to show the intricate links among all these aspects. The book's title, in fact, reveals only part of the vast area actually covered in its pages.

Specialist and nonspecialist alike will find much valuable material in the book, even though each may have problems with the study as a whole. (Unfortunately the index lists only personal names and the bibliography is only a selected one.)

The general reader will delight in the colorful and penetrating portrayals of well-known events and personalities, but may be put off when the author shifts into his more abstract discussions. The specialist will appreciate the impressive array of primary and secondary source materials—including "inside" Israeli and United States government sources, memoirs, and the Hebrew press—all painstakingly integrated to provide as solid a narrative of the "facts," and as intelligent an interpretation of the motives, as one could possibly expect in the presentation of contemporary history. Aronson's conceptualization regarding decisionmaking and conflict behavior is refreshing, original, and often accompanied by brilliant and provocative insight. Yet, the various concepts are not developed early enough in the book, nor are they interwoven consistently enough with the fabric of the historical narrative to assure sufficient unity and coherence.

Despite these difficulties, *Conflict and Bargaining* offers a valuable and comprehensive treatment of the Arab-Israeli conflict. The text was completed in July 1977 and contains an epilogue written in early 1978, after Sadat's historic peace initiative but before Camp David and the Egyptian-Israeli Treaty. Although it would be unfair to expect this or any political science treatise to equip us with foolproof predictions for an area like the Middle East, Dr. Aronson's treatment of pre-1977 Israeli politics, of the superpower role in the conflict and of inter-Arab relations does provide a new and useful understanding of the present "peace-process" and the latent war-options.

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NEIL CAPLAN. *Palestine Jewry and the Arab Question: 1917–1925*. Pp. xvi, 268. Totowa, NJ: Frank Cass, 1978. $19.50.

DAN HOROWITZ and MOSHE LISSAK. *Origins of the Israeli Polity: Palestine Under the Mandate*. Pp. xii, 292. Chicago: University of Chicago Press, 1979, $19.00.

The incredible advances made in recent decades in modern communications facilities and the instant media coverage, complete with immediate analysis and replay, have engendered in us the conviction that the world is changing at a pace far more rapid than anything envisioned in the past. To a large extent, of course, this is true, but not quite as true as some of us might have come to believe. The two books under discussion are excellent cases in point. They offer graphic documentation of the fact that many of the issues that occupy page one in today's newspapers on topics involving the middle east and Arab-Israeli relations have a long and in-

volved history, and did not arise full-blown with the establishment of Israel in 1948.

Professor Neil Caplan has made an important contribution towards our understanding of the history of Arab-Jewish negotiations on the issue of the establishment of a Jewish state in Palestine. President Sadat, in his current difficulties with the "rejectionist" states and the Palestine Liberation Organization, would find striking affinities to his dilemmas in the negotiations conducted from 1917 to 1925 by responsible Arab leaders with the titular leadership of the Zionist enclaves during that most formative period. The failures of Feisal in 1919, Hussein in 1923, and Abdullah in 1924, to successfully persuade their fellow Arabs to accept the eventuality of a Jewish state, bear close scrutinizing for their implications in the delicate negotiations currently being carried on between Cairo and Jerusalem under the sponsorship of Washington. The lesson of 1917–1925 is that it was always easier to negotiate with the neighboring Arab states than with the indigenous Palestinian population, and that "Islamic" movements tended to impede, rather than advance, such negotiations.

Contrary to the frequently repeated myth that the early Zionists tended to "ignore" the reality of the resident Arab population, Caplan's documentation establishes exactly the opposite to be true. The role of the native Arab population in the future of the Balfour-promised Zionist commonwealth was frequently, and heatedly, debated. The outcome of much of this political and intellectual ferment was a conviction that the problem was essentially insoluble as long as Britain held the mandate and felt obliged to mollify Arab extremists. As a result, the Yishuv (Palestinian Jewish community) concentrated its energies on the building up of its economic, social and political structures, and left the Arab question to be resolved by the only parties that might be able to evolve the viable responses—the Arabs themselves, both inside and outside Palestine. This, notwithstanding the intensive "Arab work" building bridges, undertaken by Kalvarisky, Judah Magnes and Martin Buber. In the end, all these efforts came to nought, as had been predicted by Ben Gurion, Jabotinsky, and the other political and intellectual leaders, in the Arab riots of 1919, 1921, 1929, and of course, 1936–1939.

Origins of the Israeli Polity, by Horowitz and Lissak, includes the "Arab question" as one of the major themes analyzed by this comprehensive survey of the development of Israeli society, and it comes out with a relatively similar, if more sociologically technical, conclusion: "The main source of both controversy and ideological change was the need to respond [in the Yishuv] to what was called 'the Arab problem.' " The fact that the consensus feeling was that it was essentially unresolvable under existing conditions, resulted in its being considered on two separate levels: the fundamental, ideological one, which could be debated endlessly and evaluated continuously; and the operational, functional one, on the other hand, which required that measures of security and political initiatives be built directly into the fabric of day-to-day life of the Yishuv.

The Arab question, however central it may have been then, as now, is only one of the major motifs intensively examined in the Lissak-Horowitz volume. By dint of its rigorous sociological analyses of the component dimensions of Israeli society, as they emerged during the British mandate years, and into the initial stages of independent statehood, it serves as an excellent summary volume for all seeking to gain an insight into the remarkable fabric of Israeli society.

Of particular importance in this regard is the strongly put reminder in the Horowitz-Lissak volume that Israel's development followed a completely unique path, strikingly different from that followed by most nations that sought independence and then modernization. Israel's formative periods produced continuous interactions between the disparate elements of the Palestinian Jewish population, on the one hand, and the diaspora Jewish communities on the other. The national Jewish institutions

developed by the Yishuv were continually and delicately counter-poised, particularly by the British, to the World Zionist Organization and the Jewish Agency for Palestine. In addition, the development of Israeli society, unlike most emerging nations, was characterized by continuous inflows of capital resources and immigration from abroad. The fervor of the Zionist pioneers enabled the early architects of Israeli society, despite their small numbers and hostile environment, to build a collectivity that "resembled a large head placed on a tiny body," and to provide the framework that would make possible the creation of a sovereign nation.

Both volumes thus serve as major additions to the growing library of studies that shed much light on the historical and sociological emergence of Israel, and the background of its social attitudes towards itself and its neighbors.

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PETER EVANS. *Dependent Development: The Alliance of Multinational, State, and Local Capital in Brazil.* Pp. xviii. 362. Princeton: Princeton University Press, 1979. $20.00. Paperbound, $5.95.

This is the most important recent book on economic development written from a Left political perspective. In *Dependent Development* Peter Evans provides the Left's first systematic recognition that a path of capitalist economic development remains feasible for at least some contemporary underdeveloped countries. Though Evans does not call attention to the fact, this view stands in marked contrast to most Marxist and radical views which hypothesize that only the adoption of socialism can propel poor nations towards economic advance. Using Brazil as a case study, Evans shows that under suitably favorable circumstances a growth promoting "triple alliance" between local capitalists, multinational corporations, and the state can be formed. To be sure the fruits of development under such an alliance will be narrowly distributed over the population. But Evans goes out of his way not to permit distributional and equity considerations from clouding his perception that a fundamental economic advance not only can but has occurred in Brazil.

The analytic core of Evans's study is a close examination of the "triple alliance." In this he follows the Marxist concern with political economy and the effort yields significant and substantial results. Evans identifies both the conflicting and congruent interests of the three partners. Demolished in the process is the myth that denationalization has occurred in the Brazilian economy. So, too, is the view destroyed that multinational firms are virtually omnipotent in their relations with a country like Brazil. Especially important is Evans's discussion of the role of the "nationalist" state. He shows that by constructing the rules of the game to entice international firms, but at the same time employing the maximum amount of bargaining leverage consistent with these rules, it is possible for a government to influence corporate investment decisions to the benefit of the host country.

In Brazil the government has been extremely active both as a joint partner in various enterprises and as a direct owner. As a result, capitalist development in Brazil has occurred in an environment far removed from a textbook laissez-faire world. In fact this environment is comparable to the setting in which late European and Japanese development occurred. Evans notes that the activist role of the state in Brazil has been employed in the absence of an ideological justification. He speculates that problems may result fron confusion in roles which may occur without such a statement. Such confusion could take the form of the state expanding its functions at the expense of the two other partners. However, such a problem is relevant only for the future since to date the aggressiveness of the state has not impeded private capital accumulation.

Evans completes his study with a consideration of the prognosis for dependent development. Brief discussions of Mexico and Nigeria lead him to conclude that alliances similar to the one established in Brazil may be created in those countries as well. Because, however, the process of dependent development requires a problematic continuation of metropolitan encouragement, he is cautious concerning the continuation of that process in the future. But, as was the case with regard to the problem of the nationalist state overreaching itself, the problem identified here is one for the indefinite future and does not assume great significance compared to the current achievements of dependent development.

Rare has been the industrial revolution which equitably benefitted the generation which produced it. What Evans has accomplished in this book is a brilliant analysis of the circumstances in which the most recent version of this kind of alienating development can occur.

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RITA JAMES SIMON. *Continuity and Change: A Study of Two Ethnic Communities in Israel*. Pp. xi, 180. New York: Cambridge University Press, 1978. $13.95.

SAMI KHALIL MAR'I, *Arab Education in Israel*. Pp. xvi, 209. Syracuse, NY: Syracuse University Press, 1978. $15.00.

The wealth of social scientific research seeking to explain the complexities and subtleties of Israeli society is augmented by these two studies which deal with the condition of important non-Zionistic minority groups within the Jewish State. Rita James Simon attempts to predict the course of future relationships between the "ultra-orthodox" Jews and Israeli-Arabs, on the one hand, and the dominant Israeli majority on the other. Her vehicles for so doing are surveys of 100 fathers and sons and 50 mothers and daughters in Mea Shearim, Jerusalem, and a total of 125 Israeli-Arab fathers and sons and 50 mothers and daughters in Jaffa (Yafo), Haifa, Acco, Lod, and Ramle. Special consideration is devoted to sex roles within these two minority communities. Although the theoretical underpinnings for the study of these groups are not fully developed by Professor Simon, the study contains an even more fundamental flaw.

Professor Simon presents no evidence and little argument that would enable the reader to share her belief that her respondents are representative of the larger populations from which they are drawn. This defect is especially serious with regard to the Israeli-Arabs. Her survey is explicitly confined to those dwelling in urban locations. However, at least two-thirds of all Israeli-Arabs live in rural areas (p. 33) and Mar'i puts the figure at 85 percent (p. 5). Moreover, although Simon claims that urban Israeli-Arabs are "almost wholly" concentrated in the five cities in which interviews were held, her own data (pp. 25, 33) indicate that no more than 25 percent of them actually live in these places. Relatedly, her claim that Israeli-Arabs do not live in other cities (p. 170, note 6) is patently false. Indeed, Mar'i (p. 5) suggests that Nazareth is the most important Arab city in Israel. In any event, no tests of statistical significance accompany any of Simon's 55 tables, thereby further confounding the reader. Similar problems are presented by the Mea Shearim survey since not all the Israeli "ultra-Orthodox" reside there, though greater intragroup homogeneity may mitigate this limitation.

Notwithstanding the fact that her respondents may be nonrepresentative of the communities from which they are drawn, Professor Simon seeks to aid the American reader in understanding the "ultra-Orthodox" by comparing them to Black Muslims in the United States. Israeli-Arabs are compared to other Afro-Americans, as well as to Italian, Greek, and Polish-American groups. For the most part, Simon's descriptions of the two non-Zionist communities is pedestrian, although one of her findings

comes as a surprise: "The fact that the [ultra-Orthodox] daughters said that they speak Hebrew exclusively at home probably indicates that there are relatively few cross-sex conversations, especially between fathers and daughters" (p. 118). Perhaps this is somehow related to the high birth rate and low divorce rate among the residents of Mea Shearim.

Although Professor Simon's study is readable, her style stresses repetition and leaves little unsaid: "Forty-nine percent of the inhabitants [of Mea Shearim] are women, and 51 percent are men" (p. 31). However, a measure of suspense is added to the work by chapter prefaces that map out the findings Simon anticipates discovering in the body of the text.

Professor Sami Khalil Mar'i has written a more valuable, though perplexing study of utility to anyone seeking to understand Israeli-Arabs and their relationships with the larger society and other Palestinians. Taking a comprehensive look at their education in Israel, Mar'i finds, as one would expect, strong indications of discrimination against these citizens. Indeed, it appears that the State of Israel has never been able to establish meaningful goals for the education of its Arab citizens, despite their growth from 7 percent of the population in 1948 to 15 percent today.

But if the Israeli authorities are perplexed by Israeli-Arabs, the latter themselves are ambivalent in their outlook on education. Thus, Mar'i finds that although Arab parents support authoritarian teaching styles in the abstract, they reject teachers' authority vis-à-vis their own children. The role of women teachers is especially complicated: in the traditional Arab view women can have no authority, and those without authority cannot possibly teach.

Professor Mar'i argues convincingly that the most salient element in the Israeli-Arab psyche is the abrupt change from majority to minority status. This change is complicated by the growing strength of Palestinian nationalism. In terms of formal education, the peculiar status of Israeli-Arabs raises a host of unanswerable questions: Should there be integration? If so, what should the dominant language of instruction be? If Israeli-Arabs must learn Hebrew, should Israeli-Jews be required to learn Arabic? Should Jewish history and culture be taught to Israeli-Arabs? Should Arab history and culture be taught to Jews? Is it realistic to develop a binational educational program where one group is such a small minority? If not, will that group be placed at a permanent disadvantage? Perhaps Mar'i's most important practical finding is that Israeli-Jews are woefully undereducated in Arab studies.

Although Mar'i's study is comprehensive and convincing, three elements detract from its overall quality. First, the author is sometimes unable to contain his hostility toward Jews. Thus, in the preface we are told that "Israel's 'Jews' are its Arabs," and elsewhere British geographical names are employed despite three decades of contrary Israeli usage. Second, Mar'i places extraordinary reliance on formal documents pertaining to curricula and so forth in a society whose bureaucratic culture militates against formalism. Finally, Mar'i's comparisons between Israeli-Arabs and West Bank Arabs would be more convincing if the reader were told more about the social characteristics of Israeli-Arabs compared to those Palestinian Arabs who fled the Jewish State.

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SAMMY SMOOHA. *Israel: Pluralism and Conflict*. Pp. 480. Berkeley: University of California Press, 1978. $24.00.

Sammy Smooha has written an important book about inequality, discrimination, and conflict in contemporary Israeli society in which the three main protagonists are the oriental Jews, the "religious" Jews, and the Israeli Arabs. The work is a scholarly, well documented account of how the Ashkenazi Jewish community exercises power over and enjoys an elite position vis-à-vis oriental Jews (who are the

majority) and Israeli Arabs. The charges it brings to bear on the Ashkenazi leadership are sufficiently disturbing that it is just as well that the author is an Israeli (he is on the faculty at Haifa University) because it increases the likelihood that the work will be taken seriously and not dismissed as a political tract.

Of the three communities, the oriental Jews and the Arabs are much more the victims of social, economic, and political discrimination than are the members of the religious community. Indeed, even though leaders of the religious community—into which Smooha cast the Zionist-oriented Mizrachi Party, the Aguda Party, and the very small but extremely vocal anti-Zionist ultra orthodox groups—do not occupy positions of national leadership, they nevertheless enjoy a good deal of power. The rest of the society, and certainly the Ashkenazi leadership, recognize that religious Jews hold strong convictions about the type of society they are willing to accept; and that some of them are prepared to go to any extremes including violence to uphold the inclusion of basic religious principles into the legal norms and social life of Israeli society. In the past, violence has broken out between religious and nonreligious groups on violations of the Sabbath and on changes in the status of women vis-à-vis military service. Those who hold power in Israel, from the inception of the state until today, are prepared to accommodate the religious community on issues that it says are basic.

Most of the book is devoted to documenting the extent to which the oriental Jews are discriminated against and treated as second class citizens. The evidence Smooha marshalls describes an unattractive picture for a country that prides itself on being a socialist-democratic society. But in his conclusion, when Smooha makes some projections about the future, he is optimistic about the willingness and ability of the Ashkenazi Jews to accept the Orientals as equals, and of the oriental Jews ability to move up the social, political, and economic status ladder as they acquire more skills and meet less interference than they have had in the past.

The reason for Smooha's optimism is that the oriental Jews are Jews; and that brings us to the third community discussed—the Israeli Arabs. For that community's position and eventual acceptance within Israeli society, the author finds little basis for optimism. Israel is a Jewish state—all of its sacred symbols refer to the history of the Jewish people. Its laws and institutions—the law of return, the observance of the Sabbath, laws pertaining to marriage and divorce, dietary customs—reflect the Jewish nature of the society. For Israeli Arabs who comprise 14 percent of the population, these symbols at best arouse no emotions and for some they are an anathema. As more and more of the Israeli Arabs gain in education and economic status, their demands for a larger share of political power and for a more legitimate status in the Middle East will only increase. Smooha, like almost everyone else who has studied and written about this issue, offers neither hope nor solution to the problem of integrating Israeli Arabs into Israeli society.

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CARL E. SOLBERG. *Oil and Nationalism in Argentina: A History*. Pp. xvi, 245. Stanford, CA: Stanford University Press, 1979. $15.00.

Petroleum is much in the news these days; and nationalism is perhaps reaching its zenith in our time. This extensively documented chapter in Latin American history is indeed timely. It also constitutes in fact, if not intent, four integrated case studies, all with reference to one American country in the present century.

There is a case study in the emergence and development of "economic nationalism"; a second, of an institution intimately related to nationalistic senti-

ments, the state-owned and operated petroleum enterprise, *Yacimientos Petrolíferos Fiscales* (or YPF, as it is commonly called), organized in Argentina in 1922, the first of its kind in Latin America—or in the world—and one which, after feeble beginnings, eventually became a potent symbol of economic independence and finally the country's largest economic enterprise. There is also a case study of the intricate and continuous relations between economics and politics; and a fourth in the relations of multinational corporations like Royal Dutch Shell and Jersey Standard to the economic and political development of a preindustrialized nation.

Immense quantities of historical data are packed into this well-ordered volume. Focusing primarily on the period from 1907, when oil was discovered on state-owned land in Patagonia, up to the coup of 1930—or those years in which the ideology and institutions that molded Argentine petroleum affairs became established firmly enough to weather the periodic political turbulence of succeeding years—attention is given to the roles of such intellectuals as Alejandro Bunge who was influenced as a student in Germany by the nationalist and interventionist ideas of the 19th century economist, Friedrich List. Among others, and perhaps most important, there was the dedicated theorist and activist Army officer, Enrique Mosconi, of "impressive organizational and administrative talents" (p. 86), the "guiding genius" of YPF from 1922 to 1930, and the first Latin American to develop and publicize extensively, not only in Argentina but also in other countries where he gave public addresses, including Mexico, Colombia, Peru, and Chile, a "realistic ideology of petroleum nationalism" (p. 132).

The story is all there, including the stimulation of reflection and action along these lines by such events as the first World War, when Argentine imports were cut off, particularly British coal, previously the principal national fuel (despite excellent domestic resources). At the same time, European markets for Argentine agricultural products were lost. Effects of World War II are also considered: the continuing dependence on imported capital; the growth of the middle classes and their underemployment; the "Doctrine of National Security" developed within the Army; the Great Depression; the partial failure for some years of the Argentine wheat crop at about that time; a corresponding decline in exports; an increasingly adverse trade balance; general unemployment; and, finally, the abandonment of the gold standard. All of these and still other events described here in detail contributed to the development of economic nationalism in Argentina and a petroleum policy related to it.

Meanwhile partisan political struggles developed over the proper role of government in the economy, and over petroleum legislation involving at times also the issue of federalism vs. provincial sovereignty in certain western provinces with reference to the production of petroleum by privately owned, multinational oil companies. A "conspiracy thesis" (p. 153) regarding the latter emerged and was widely disseminated; and periodically the expropriation of foreign-owned railways, utilities—and, eventually, petroleum enterprises—was threatened or actually occurred.

A final chapter outlines developments since 1930, particularly the consolidation of state control over petroleum, and the influence of Argentina's initiatives in this respect over similar developments in other Latin American countries. By the mid-1960s, eleven had set up state-owned and operated oil enterprises; and by 1975, the Venezuelan government came to control alone, for the first time anywhere, a petroleum industry vertically integrated from production to distribution.

A map locating the five principal oil fields in Argentina, numerous photographs, cartoons, and 23 tables supplement the text. Footnotes, however, have been relegated to the back of the book (where they cover some 30 pages), an

eminently practical and presumably less costly arrangement for the publisher but awkward and time consuming for the serious reader.

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CURTIS ULLERICH. *Rural Employment and Manpower Problems in China*. Pp. 130. White Plains, NY: M. E. Sharpe, 1979. $12.50.

Effective utilization of labor in China's rural areas has been a necessary if not sufficient requirement for her successful economic development. Though the rural policies of the Chinese Communist Party (CCP) are well-known, and the institutional changes revolving around the newly-created rural communes have been widely written about, not very much is known about the grass-roots processes by which rural labor has been deployed to generate capital construction on a large scale; even less is recorded about the quantitative dimensions of the rural work force and its allocation. Curtis Ullerich's little book is a worthy effort to help fill this gap.

In his work the author puts the question of wrenching capital and land out of the economy's abundant labor supply, in the somewhat narrower context of rural labor and its organization and utilization, to give a rapid thrust to Chinese development until industrial expansion provides the mechanized sinews essential to sustain development along the Maoist revolutionary path. After a very brief introductory chapter, Ullerich analyzes the land-labor situation before the revolution, revealing the large amounts of potential labor surplus implicit in utilization patterns.

The next chapter deals with the CCP's conception of the rural labor problem as one of ideology and organization in which the poor and lower middle class peasants are made the base of a transformation process leading to collectivization and the generation of additional labor whose deployment can be engineered to fuel capital construction. In the succeeding two chapters we are led through the stages of rural collectivization and communization with the commune projected as the "definitive" solution to the rural labor problem.

Chapters six and seven are the heart of the book with their description and analysis of employment practices and policies and the role of mechanization in the rural development strategy. Most of what precedes these chapters is familiar material even for nonspecialists so that the work's contribution to our understanding of the Maoist rural revolution and its transformation into a process of capital construction and land reclamation and improvement is found in these chapters. They are succeeded by a final chapter of conclusions which give quite high marks to the policies and their implementation and see them as having possible inspirational relevance for Third World countries.

In dealing with employment in the countryside and the process of mechanization, the author shows a keen grasp of the workings of rural communes and their evolving handling of labor power in agriculture and in rural industry. He also analyzes well the nature of mechanization and semimechanization, both as processes that will reshape the labor utilization situation and set off new challenges to the deployment of labor as agricultural tasks become more and more mechanized.

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ALEXANDER K. YOUNG. *The Sogo Shosha: Japan's Multinational Trading Companies*. Pp. xxiii, 247. Boulder, CO: Westview Press, 1979. $20.00.

The Sogo Shosha of Japan, trading companies par excellence, have elicited much commentary in various national presses and especially in Japan. Praised for their role in building up Japan's post World War II economy, their

economic power and ties to large Japanese financial and industrial entities have more recently elicited condemnation and concern.

Most Western and American observers have been disadvantaged in that little has heretofore been available that objectively explains the nature and approach of these rather unique organizations. Indeed, the imagery of the prewar *Zaibatsu* with their massive economic and political connections has most often been evoked.

Alexander Young has provided us with a very straightforward description and analysis of these remarkable institutions. He portrays their historical development, the nature of their ties with government and other Japanese business entities, and their present dilemmas as they seek to survive in a much altered economic and political milieu.

Although brief allusions are made to unique Japanese behavioral characteristics in terms of management style and organizational approach, this is probably the weakest part of the book. There are also certain hypotheses made where data (which was often difficult to come by) was lacking. Nonetheless, there is no question that students of Japanese business and economics will find this a most valuable resource tool.

The multinational trading companies of Japan were unique institutions adapted to the needs of a growing Japan. They have contributed significantly to a nation reliant on trade and external resources. With each new crisis and environmental change, they have shown the capacity to adapt to the altered circumstances. One expects that this pattern will continue.

In many ways the Sogo Shosha have been and should continue to be positive assets for international trade generally. They are trade facilitators of a high caliber. Many businessmen in the West could well learn from them. Their use of sophisticated data networks, worldwide connections, and their emphasis on service to the customer make them better able to respond to many needs than can many traditional, though large, western enterprises that would like to deal directly with customers. The suspicions created thereby are probably not justified, but the lessons are probably not learned either.

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A. H. HALSEY. *Change in British Society*. Pp. viii, 191. New York: Oxford University Press, 1978. $11.50.

A. H. Halsey, Nuffield College, Oxford, has edited and revised his BBC Reith Lectures for publication. The lectures survey and analyze recent social changes in Great Britain, probing deeply enough into the dynamics of change to allow Halsey to examine policy implications of the trends he describes. Halsey's broad scope includes changes in distribution of income and wealth, developments in political party organization, changes in the relationships between organized labor and government, revisions of social status and social class orientations, and education and social mobility.

Halsey begins with a brief overview of a sociological perspective on social change, introducing a number of themes that are expanded in succeeding lectures. Among these are the variations on what he identifies as the "ideals which dominate modern social thought —Liberty, Equality and Fraternity."

An analysis of changes in the distribution of income and wealth is supported by evidence of related changes in occupation and demographic characteristics. This leads to a complex chapter on social class and social status in which the liberal and the Marxist positions are questioned and an alternative viewpoint, based on T. H. Marshall's work, is recommended.

The chapter on "The rise of party" is not confined to bureaucratic trends in the political sphere, but is concerned broadly with the emergence of organization in all facets of contemporary society and the seemingly inevitable

centralization and problems of contact with the community level and the periphery.

A succinct chapter on population trends and their consequences for the family and intergeneration relations focuses on differential fertility patterns. This is followed by a detailed and data oriented chapter on mobility and education. Halsey refers frequently to the emerging findings from the current Oxford study of mobility. Patterns of access to secondary and higher education, and the relationship between measured I.Q. and social class in academic placement are thoroughly explored. The chapter includes suggestions for policy changes intended to accomodate alternative educational options at the community level.

In the chapter on the basis of social order, Halsey uses a description of changes in the exercise of authority to make a case for increased attention to means for strengthening participative democracy. That prepares the way for the final chapter's message that "fraternity"—the development and nurturance of community based institutions—" is the precondition of liberty and equality."

Each chapter is accompanied by an annotated bibliography of from fifteen to twenty authoritative scholarly publications on the major trends identified in the text.

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JOHN W. JACKSON. *With the British Army in Philadelphia, 1777–1778.* Pp. xiv, 374. San Rafael, CA: Presidio Press, 1978. $16.95.

ROGER NORMAN BUCKLEY. *Slaves in Red Coats: The British West India Regiments, 1795–1815.* Pp. xi, 210. New Haven, CT: Yale University Press, 1979. $17.50.

With the British Army in Philadelphia starts with the military actions leading to the British occupation of Philadelphia and ends with the aftermath of the evacuation of the city by the British army. A large part of the book deals with the military and naval aspects of the subject and since the book is concerned primarily with the British, emphasis is placed on the activities of the British regulars, the Hessians and the Loyalists. There are the military conflicts carried on between the forces of Generals George Washington and Sir William Howe, including the struggles of Howe and Washington for control of the Delaware River and harbor of Philadelphia. This fight involved the Pennsylvania and British fleets. The successful outcome of this struggle for the Delaware was essential to the provisioning of both the city and the British army. The rivalry and bad feeling between Sir William Howe and his successor, Sir Henry Clinton, did not raise serious problems in the transfer of command although Howe retained command after Clinton's arrival, despite the fact that Howe's recall to Europe was at his own urgently repeated request.

The role of Joseph Galloway as the Loyalist leader of civil government in Philadelphia and then the deterioration of his relationship with Howe is one of the significant failures of the British regime in Philadelphia. The General's conviviality set the tone for the theatricals, gaming, balls, parties of all kinds, culminating in the extravagant "Meschianza," a most elaborate going-away-party for Howe, organized by the man at the center of much of this social life, the ill-fated Major John Andre. Miss Rebecca Franks is the spirited Loyalist "belle" through whose eyes and comments Mr. Jackson often introduces us to this aspect of Howe's Philadelphia. Finally there is the evacuation of Philadelphia under Clinton in which the army and the Loyalists return to New York City.

Dr. Buckley's *Slaves in Red Coats* is a more professionally solid work of scholarship than Mr. Jackson's. This book is based on Buckley's doctoral dissertation submitted to McGill University in 1975. It deals with the British West India regiments from 1795 to 1815. These regiments were raised by the

initiative of His Majesty's Government in London over the protests of the Plantocracy in the West Indies, especially in Jamaica. Buckley claims this was the first time since the American Revolution that London had reasserted its dominant position in colonial affairs over the wishes of colonial legislatures. He also argues that the raising of these regiments mainly from "raw negroes" (African-born), rather than creoles (West Indian born), caused William Pitt and his cabinet colleagues to delay legislation for the abolition of the slave trade.

The superior status of the soldier, including noncommissioned officers, over slave field hands had an important influence in creating new roles and perceptions of blacks in the West Indies. Even more important was the army's success in securing free legal status for black soldiers, so that when the regiments were disbanded there were large numbers of black men in the West Indies who were not slave but free. All this is important as precedent for the subsequent freeing of slaves in the British Empire.

Still another important contribution made by the campaigns of these West India regiments was in demonstrating *the effectiveness of light infantry in* irregular warfare to the War Office. This book is a pioneer study in a neglected area, and it makes a convincing case.

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JOHN M. MERRIMAN. *The Agony of the Republic: The Repression of the Left in Revolutionary France, 1848–1851.* Pp. xxxvi, 298. New Haven, CT: Yale University Press, 1978. $20.00.

To the informed observer, modern French politics has until rather recently been marked by an unusual "effervescence"—to borrow a characterization of Charles de Gaulle. In the twentieth century, especially during the lifetime of the Fourth Republic, this phenomenon expressed itself most obviously in all too frequent cabinet changes; and in the nineteenth century, it manifested itself in the even more prominent changes of régime. Between 1789 and 1871 the institutional structure of the country's political system underwent no fewer than seven transformations, until the consolidation of the Third Republic seemed to prove Adolph Thiers' wisdom that a republic is the regime which divides Frenchmen least. This political reality which emerged after 1877 was, however, still too much of a radical ideal between 1848 and 1851.

The work under review is not a history of the Second Republic; it does not attempt to explore the reasons for "the agony of the republic" or why it failed. Rather, it "seeks to explain how Louis Napoleon Bonaparte, elected as president . . . for a term of four years in 1848, achieved absolute power in 1851." Or, more pertinently, it seeks to explain how the initially successful revolutionary coalition of bourgeois republicans and economically distressed laboring poor was dissolved. The author suggests that the traditional explanations generally advanced are no longer satisfactory because they do not allow for the continuing regional successes of the far left after the bloody June Days of 1848. He acknowledges that many bourgeois revolutionaries of February did indeed recoil to join the forces of order when confronted with the threat of social revolution, and in that sense France was too conservative for a republic with advanced social policies. He also concedes that the country's economic structure was still too traditional and its proletarians too few to sustain a social revolution in the Marxist sense. But since such "standard interpretations" do not explain the *montagnards'* electoral victories during 1849, Merriman argues that the demise of the republic and the rise of Louis Napoleon in 1851 are best understood as the result of the political repression of the far left by the "men of order."

Merriman's thesis emerges from richly detailed case studies of different areas of France representing urban communities and rural regions. He found that the impact of the February revolution in

Paris on the provinces was to encourage organized collective action and thus to draw ordinary people into the political process. The provisional government's lifting of legal restrictions on the right to vote and the freedoms of press, association, and assembly enabled the *montagnards*, or *démoc-socs* (democratic socialists), to mobilize the laboring poor around "a relatively coherent and cohesive message." The content of that message, although varying in detail according to local economic grievances, generally addressed itself to the social question in the sense that socioeconomic inequities should be redressed through the democratized political institutions.

Merriman shows that as soon as the propertied interests were confronted with this development, political repression began. The government systematically destroyed the means by which the mobilization of the radical opposition had taken place. The popular press, political clubs, workers' associations, cooperative societies, and informal electoral networks of cafés, banquets, carnivals, and folk festivals were disrupted or dissolved by surveillance, harassment, intimidation, and ultimately, legal sanctions. Local officials such as mayors, councilmen, tax collectors, and school teachers were watched and "evaluated" by their subprefects, and purged if found disloyal to the existing regime. Even the symbols of the red republic—red flags, caps, ties, and ribbons—were outlawed. In one instance, fifty troops were dispatched to a village near Amboise to remove the weather cock from its church because it had been painted red. With such attention to detail, Merriman argues, the forces of order had effectively repressed radical protest and its organizational network before December 1851, and thus contributed significantly to the success of Napoleon's coup d'état.

As a social history of political repression in the Second Republic, Merriman's work makes an important contribution to our understanding of French political effervescence at the grass roots level. It is based on extensive use of national and departmental archives, and is reasonably successful in its effort to make the "little events" of the past come alive.

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JAMES RIORDAN. *Sport in Soviet Society*. Pp. ix + 435. New York: Cambridge University Press, 1977. $29.50.

Riordan, currently a lecturer in Russian Studies at The University of Bratford, completed most of the research for this work while the Moscow correspondent for the journal of the British Olympic Association during the period of 1961–1975. *Sport in Soviet Society* is a revision of Riordan's Ph.D. thesis and it represents the first comprehensive description of Soviet sport since Morton's clearly outdated and insufficient 1953 publication.

Sport in Soviet Society presents a detailed description of Soviet sport beginning with the Tsarist eras in 1901 and culminating in a discussion of the contemporary use of sport by the Soviets as an integral part of their foreign policy. Riordan's attention to detail, his compilation of statistics, and his grasp of the systemic functions of sport in Soviet society cannot be faulted. He is so thorough that he even presented a range of average temperatures in certain regions of the Soviet Union and related them to varieties of sport participation in those areas.

What is missing from this account is the analytical dimension. His elaborations on "cause" or "why" as they relate to explaining the political and social ramifications of patterns of sport organization and participation in the Soviet Union are weak and lack depth. In addition, Riordan presents an excellent description of the organization of Soviet sport, but we really do not get the "flavor" of participation. To put it in a rather cliched fashion, Riordan does not tell the reader about the "Thrill of Victory or the Agony of Defeat" as experienced by participants. Obviously, official records and interviews with

sport administrators provided most of Riordan's data. These sources do not provide any revelations on the intrinsic dimensions of participation.

Despite these shortcomings, there are several themes of Soviet sport which Riordan brings to light. First, sport in the Soviet Union, even since Tsarist days, has been centralized in the hands of the government. Even during the Communist period of 1929–1941, when officials sought grass-roots responsibility for the organization and operation of sport, the Party still directed sporting activities. The landmark 1966 Resolutions affirmed government supervision of sport as domestic policy.

Second, given the policy inclusion of sport, athletics on any level are viewed by the Soviets as most important for their extrinsic functions for Soviet productivity, military preparedness, health, national pride, foreign policy advantages, and anti-religion propaganda. The Soviets are neither subtle nor hypocritical on this point. Soviet sport is shaped by very specific ideological and utilitarian designs. While United States officials make every effort to maintain the facade of apolitical sport by decrying efforts to, for example, politicize the Olympic Games, Soviet sportsmen admit their political purposes unabashed.

A third theme which permeates Soviet sport is the ongoing controversy of emphasis on elite sport (mastersov') or mass participation (massovost'). As in America, elite sport participants are drawing the most attention since they can bring greater glory to the fatherland than some remote farmer who just likes to run in the hills. Marx would probably be shaking in anger could he see the priority of this "bourgeois" approach to sport.

Riordan does well to remain neutral in his description. However, one cannot help but feel that he is in awe of the Soviet System particularly when he notes the successes the Soviet Union has realized in international competition. Still, *Sport in Soviet Society* is must-reading for any sport scholar since there is a dearth of material on Soviet and Communist bloc sport that is available to western readers.

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JAMES J. SHEEHAN. *German Liberalism in the Nineteenth Century*. Pp. 411. Chicago, IL: The University of Chicago Press, 1978. $27.00.

For the last three or four decades, historians of modern Germany have often grappled with the fate of liberalism. The problem is an intriguing one with major implications for German political history in the twentieth century. During the revolution of 1848, in the "New Era" of the late fifties and early sixties, and again at the time of the creation of the German Empire, the liberals, from all outward appearances, possessed a potentially dominant influence in German politics. Unfortunately, from the liberal point of view, this position of strength waned and eventually collapsed in the last quarter of the century.

James Sheehan, in this meticulously prepared study, has analyzed in great depth the relationship between liberalism and German society from 1815 to 1914. Among major themes in this book, one can find liberals formulating their views in a spiritual, intellectual sense rather than as guidelines for the development of political organizations designed specifically to bring about practical changes in government and society. Throughout his study the author correctly emphasizes the continued diversity of German society and politics, a traditional regional diversity that was intensified by the uneven progress of social and economic growth.

In addition, proper attention has been paid to the problems of the relationship of the liberal to the state and to the general population. The state, as far as many liberals were concerned, was both a friend and a foe. Without the aid of the state, the moral and material backwardness of the German people could never be resolved. Along with

progressive action the bureaucratic states of Germany also brought forth repression. Moreover, the liberals invariably distrusted the masses beneath them on the social and economic scale and often refused to seek their electoral support. A highlight of the book is the author's masterful analysis of liberal weaknesses on the eve of the introduction of universal male suffrage.

Sheehan's research and methods contribute substantially to the quality of the book. He has made use of the traditional sources on liberalism, but this study is not merely intellectual history with a dose of politics. His empirical data supply insights into the historical process that have often been overlooked. In particular, his more than fifty tables and figures provide us with the data necessary for a sophisticated analysis of liberal politicians, their social and economic status, and their electorates. Voting figures on national and regional elections form the backbone of his political analysis. More than eighty pages of detailed footnotes attest to the author's high level of scholarship. This is a major book on a significant subject by a mature scholar.

CHARLES J. HERBER
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EZRA N. SULEIMAN. *Elites in French Society: The Politics of Survival*. Pp. xiii, 299. Princeton NJ: Princeton University Press, 1979. $20.00.

There is no dearth of written material on French political elites. Yet, most existing studies remain painfully institutional, formal, and legal in their approach to the subject and/or do not go much beyond a discussion of the socioeconomic and educational background of French governing elites. Furthermore, they frequently focus only on sub-sets of elites or on relatively narrowly defined mechanisms of recruitment and training. Finally, with the exception of a small number of works, their theoretical import is of questionable value, high flown generalizations stated in terms of provocative "paradoxes" taking precedence over the painstaking formulation of firmly established theories. To the extent that *Elites in French Society* is the first systematic and empirical overall analysis of French elites from the unchartered perspective of their legitimization, Suleiman not only brings together hitherto disparate and fragmented information into a coherent framework, he also fills a major gap in our scholarly knowledge of the French political system.

Professor Suleiman is by no means a newcomer in the discipline of French studies and his earlier pioneering *Politics, Power and Bureaucracy in France* still remains the best available treatment of the workings of the French high administration. Here, he goes a step further in his thinking and broadens considerably the scope of his previous analysis. Why does the French administrative elite enjoy a quasi "imperialistic" influence transcending the public sector and spilling into politics, industry, finance, and education? Drawing on the works of Mosca, Tocqueville, Pareto, Mannheim, Weber, and Schumpeter, Suleiman argues persuasively that the dominance and stability of France's "state strained elite" derive from 1) the existence of a "small number of institutions with extremely restrictive entrance requirements (that) grant lifelong (elite) membership and have the responsibility of defining and certifying excellence"; 2) the elite ability "to legitimize itself through its capacity to get its own standards of competence and expertise accepted by the outside world"; and 3) the elite concrete achievements in administrative and economic management, avoidance of excessive specialization and tolerance of a limited degree of intra-elite competition. The end result of these interrelated political and behavioural processes of elite formation and adaptation is the emergence of a distinctly centralized and institutionalized elite system in France also characterized by an unusual degree of legitimacy as evidenced by the absence of any meaningful political debate over the Grandes Ecoles.

It is difficult to find any flaws in this superbly written and lucid book based on an impressive mastery of historical and documentary evidence and a skillful distillation of original survey data providing a fine grain picture of power, functions, interests, self-images, and training work of French elites. Critiques may point out that Suleiman did not try to explain the apparent contradiction between the enduring stability of the French elite system and the large scale transformations of French society in the postwar period. But such was not his concern here and, in any event, this problem will provide the focus of his next and now in progress book, tentatively titled *France: Social Change and the Transformation of a Society*. I would not hesitate to label *Elites in French Society* as a seminal work.

JACQUES FOMERAND

United Nations

UNITED STATES

ROBERT J. BLAKELY. *To Serve the Public Interest: Educational Broadcasting in the United States*. Pp. xviii, 274. Syracuse, NY: Syracuse University Press, 1979. $16.00. Paperbound $7.95.

Robert J. Blakely has long been a participant in the development of public broadcasting. His insights into the labyrinthian process from which the present system has emerged are uniquely valuable, and his detailed discussion of decisionmaking for instructional, educational, and, ultimately, more broadly defined service probably could not be duplicated.

Central to the development of noncommercial broadcasting in the United States has been both the growth of and the constraints provided by limited public and private funding. It is here that the author's own involvement has centered (he was, for example, vice president of a Ford Foundation subsidiary that was instrumental in getting the system off the ground), and here that the book's contribution is greatest. Blakely tells us little about the results of funding decisions that we do not already know, but his descriptions of the decisionmaking process itself and of the participants therein are most illuminating. The reader comes away from this book with a firmer understanding of why the present system is as it is and how it got that way. To say that this is a thorough history is to miss the point; it is perhaps not comprehensive in the largest sense, but it is richly detailed and carefully and skillfully argued.

Yet the evident strength of this effort may be the source of its weakness as well, for Blakely's is an insider's history. It lacks the critical edge, the hint of skepticism, that might make it more valuable still. Time and again the author touches on the juxtaposed roles of the Carnegie Corporation as the formulator and legitimizing agent for long-term development plans for public broadcasting and of the Ford Foundation as its driving financial force over many years. Yet he never sees the need to *evaluate* the role of these powerful institutions or the propriety of their actions. He notes regularly the reluctance of government adequately to fund public broadcasting, but gives rather little attention to the political bases for that reluctance. Nor does he view critically the broadcasting system itself, with its limited access for producers, its regionally disproportionate allocation of production funding, or its cumbersome procedure. Blakely has undoubtedly thought about these issues, and his insights could prove both interesting and valuable. They are not, however, to be found in this volume.

Taken together, the strengths of this work far outweigh its weaknesses. It makes a significant contribution to our knowledge of the history of noncommercial broadcasting, and belongs on the bookshelf of all students of the American communication system.

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EDWIN H. CADY. *The Big Game: College Sports in American Life*. Pp. xi, 254. Knoxville: University of Tennessee Press, 1978. $14.50.

The significance of college athletic events, particularly big-time football and basketball contests, rests not in the intrinsic dimensions of the game itself, but in the ceremonies and assorted activities that surround the game—tailgate parties, homecoming celebrations, fraternity parties, pre- and postgame analyses by coaches and fans, fisticuffs in the stands, cheerleaders, All-Americans, and so on. Cady asserts in the initial section of this work that college athletics represent a public art form, not ephemeral pop art, but an integral, perservering cultural phenomenon. He states that college sports represent "the best party in American life. The Big Game enacts itself as the most vital folkloristic event in our culture" (p. 75). These sports represent our life, its joys and sorrows, conflict and community, product and process. No other event on the American scene has such stature. In fact, Cady seems to be saying that we need college sport in order to survive.

Putting sport in the exhalted position of a societal requisite illustrates Cady's tendency to over statement and reflects his stance as a somewhat naive superfan. Cady is also, however, an academic who is enamored by the uniqueness of college life, and I suspect, saddened by the demise of the traditional boundary between town and gown.

By virtue of his dual devotion to the causes of sport and campus Cady places himself in a near irrevocable dilemma. On the one hand, college sport has become a major cultural extravaganza. At the same time the unique connection between student life and athletics has been eroded to the point that intercollegiate athletics are no longer controlled by academic governance. The final chapters represent an almost tear-jerking lamentation of the fact that academics have lost control of athletics to outside interests (that is, boosters, media) and that these activities are only a shaded facsimile of their original form when founded on college campuses.

Herein lies the dilemma unrealized by Cady: College athletics remain a "larger than life" cultural phenomenon serving both individualistic and communal functions for the American people, and at the same time retain the sense of spontaneous folly or virtu that characterized college games in their original form. If sport is as integral to society as Cady asserts, then it is too serious to become folly. Severe structual and attitudinal changes will have to take place within intercollegiate sport before it can ever again be a unique college phenomenon. Thus, Cady must accept one position or the other. He cannot have both.

Cady is certainly correct in his assertion that academics no longer control athletics. Perhaps they lacked the skill or the motivation to monitor an activity which clearly had taken on previously unpredicted dimensions. More important, according to Cady, with the absolving of responsibility for athletics by academic interests, these activities lost a crucial source of moral restraint and ethics.

The result of the lack of responsible academic governance in athletics was the creation of an activity characterized by corruption, "show biz" flair, and a win-at-all costs attitude. The adoption of these traits subsequently precipitated a loss of a sense of morality within these sports. Cady states: "That result is moral disorientation, loss of capacity to tell right from wrong, left from right, up from down in the moral world" (p. 176). Today, few would dispute this view. However, the usually undiscussed by-product of this image of athletics is the transference of a perception of corruptability to the general university or college community. The seemingly uncorruptable, idyllic, even holier-than-thou campus is consequently tainted by the fraud and deceit practiced by one of its component parts. This is the tragic dimension of intercollegiate athletes as we known them today. Cady is one of the few to draw our attention to this fact.

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PAUL A. CARTER. *The Creation of Tomorrow: Fifty Years of Magazine Science Fiction.* Pp. x, 318. New

York: Columbia University Press, 1977. $12.95.

Carter, a historian at the University of Arizona, starts his book in a revealing way: "Science Fiction in recent years has suffered a fall into respectability. Its new status was dramatized the morning after the moon landing of Apollo 11 (July 1969) when CBS interviewed several science fiction writers—Ray Bradbury, Arthur Clarke, Robert Heinlein—and listened to them with the same respect accorded by television that day to Henry Steele Commager, Norman Mailer, and sundry scientists, military men, and theologians. For writers like these, such deference was a new experience" (p. 3). One fantasizes fruitlessly about Shakespeare resenting his groundling audiences, or Dickens waiting expectantly for reviews of his novels in the conservative reviews. In short, the inferiority complex that plagues so many science fiction fans is much more than the jockeying for prestige that is a commonplace in the changing ecology of genres we call literary history.

After having carefully scrutinized *Science Fiction: Contemporary Mythology*, an anthology put together by the Science Fiction Writers Association and the Science Fiction Research Association to establish the literary legitimacy of their genre, I have come to the conclusion that the genre has a lot to feel inferior about. Even two "mainstream" literary scholars, Brown's Robert Scholes and Michigan's Eric S. Rabkin, in *Science Fiction: History. Science. Vision*, have only convinced me that their subject is grist for the mill of the cultural historian. Students urged me to read the "best"—Robert Heinlein's *Stranger in a Strange Land*. I couldn't finish it: sophmoric philosophizing vied with a tawdry style to alienate me. Ursula Le Guin, O.K. But a few fine swallows do not a migration make.

But the issue is not whether I am corrigibly blind to the value of science fiction as literature, but why do they whine so?

> To the delight of science fictionists—and to the disdain of some "liberal arts"-minded persons, who take positive pride in their own ignorance of such vulgar matters as mathematics—[Poul] Anderson in his best work brilliantly fuses vivid romanticism with hard-headed realism (p. 72).

> A session on science fiction at the 1968 annual meeting of the Modern Language Association brought writers like Isaac Asimov, Robert Silverberg, and Frederick Pohl before an audience of English professors, many of whom had not been accustomed to taking either science or science fiction very seriously (p. 269).

> Paradoxically, therefore, the science fiction magazine, which began as an outcast from American literature, has become one of the few places where the craft of imaginative writing can still be practiced, enjoyed, and paid for (p. 277).

This messianic advocacy is a shaky reed on which to build a historical essay. I remain convinced that most "sci fi" (I'm futilely warned never to use that locution on p. x!) is to serious literature what chewing gum is to nutrition: it may make the digestive juices flow, but there's mighty little nutrient involved.

Carter has divided his analysis into ten chapters plus a useful "Geneaology of Magazines Cited" and a valentine to the university's order librarian called "Vault of the Beast, Science Fiction in the Library."

1. Extravant Fiction Today—Cold Fact Tomorrow
2. What's It Like Out There? Rockets to the Moon, 1919–1944
3. Under the Moons of Mars, the Interplanetary Pastoral
4. The Fate Changer, Human Destiny and the Time Machine
5. The Phantom Dictator, Science Fiction Discovers Hitler
6. Alas, All Thinking! the Future of Human Evolution
7. The Bright Illusion, the Feminine Mystique in Science Fiction
8. Paradise and Iron, After Utopia, What?
9. By the Waters of Babylon, Our Barbarous Descendants
10. The Dwindling Sphere, the Finite Limits and the Spirit of Man

Some of the material is plot summary, some of it critical effusions on long past

ideological squabbles among the science fiction cognoscenti, some of it self-congratulation about the predictive power of the genre (this is a "no lose" situation inasmuch as only the handful of prophecies come true are cited). I found chapter seven most interesting, given that the genre seems to have been crew-cut macho from the start.

The data he presents is in fact of value for the social historian trained to interpret it. But as it stands it is either unconvincing or uninterpreted. The "art" that illustrates the genre (and this book) is appallingly grotesque or crude or both, including the color book jacket which in the author's description inside the book jacket (with a straight face, I'm afraid) "is from the very first science fiction magazine Mr. Carter ever read." "Most of the manuscript was read, in five-minute chunks, over the University's radio station, in a twice-weekly program 'Science Fiction Scrapbook' . . ." (p. 301). I hope it does not appear mean to conclude that it reads more like discontinuous entertainment than analytical history.

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PAOLO E. COLETTA. *Admiral Bradley A. Fiske and the American Navy.* Pp. xiii, 306. Lawrence, KA: The Regents Press of Kansas, 1979. $25.00.

In reading Professor Coletta's, *Admiral Bradley A. Fiske and the American Navy*, one can't help but be immediately impressed with the wealth of primary source research material that has gone into this detailed biography. With little embellishment, Professor Coletta follows almost step-by-step Admiral Fiske's complete naval career with little more pre-navy background than the date and place of his birth (1854—Lyons, New York).

From the beginning of his career, Bradley Fiske was an inventor of naval optical equipment such as the range finder. Most of his inventions, for which he was many times granted patent rights, were further refined into modern day fire control systems. Any naval officer who has stood a bridge watch certainly has relied on the Fiske invented stadimeter (1895), engine-order-telegraph, helm-angle indicator, speed and direction indicators, and steering telegraph.

But Bradley Fiske was much more than an inventor and Professor Coletta rightfully spends the major portion of his book describing Fiske as the complete and versatile naval officer. Fiske saw live battle action at Manila Bay (1898) as a lieutenant with 22 years service aboard the 181 foot gunboat *Petrel*; he served numerous tours on heavy combatants (cruisers & battleships) as both executive and commanding officer; and served as a fleet commander. However, Fiske's major battles came to be with the civilian arm of the Navy and in particular with Josephus Daniels, Secretary of the Navy under President Wilson.

Fiske had always advocated civilian control of the Navy but on matters of fleet manning and readiness Fiske believed the Secretary should follow closely the advice of a naval senior staff which would be headed by a Chief of Naval Operations. Fiske did attain the position of Aide for Operations but because of his continued assaults on Secretary Daniels was passed over for the newly created (1915) position of Chief of Naval Operations. Daniels selected instead Captain William Benson as the first CNO.

Fiske, realizing that he was at the end of his naval career, offered to resign in April 1915. Daniels only response was when would his resignation take effect. Thus, in June 1915, Daniels, as Professor Coletta notes, ordered Fiske into "cold storage" at the Naval War College. Not to be denied, Fiske continued through his peers and the media to battle with Daniels over the unpreparedness of the U.S. Navy for World War I. On his sixty-second birthday (1916), Bradley Fiske retired. He had spend forty-six years in the Navy.

Retirement certainly did not stop Fiske from continuing his criticism of what he perceived to be the low state of preparedness of the U.S. Navy. In addition, he spent a considerable amount of time encouraging management reorganization and becoming a foremost advocate

of the torpedo plane. When Fiske died in April 1942, he had written 6 books and 65 articles (compared with Mahan's 20 books and 145 articles).

Professor Coletta has certainly graced the interested public with an incisive biography of a truly versatile naval officer. One can not lay the book aside without wondering whether a maverick such as Fiske could survive in the modern day navy. Frontal assaults on navy hierarchy usually produce twilight tours. Somehow Admiral Fiske was able to survive and this may be the lesson to be learned from Coletta's *Fiske*—total dedication to the betterment of an institution will eventually produce results. The modern day U.S. Navy owes a debt of gratitude to the Bradley Fiskes of the world.

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ROBERT H. CONNERY and GERALD BENJAMIN. *Rockefeller of New York: Executive Power in the Statehouse*. Pp. 474. Ithaca: Cornell University Press, 1979. $15.00.

The publication of the first in-depth study by political scientists of the Rockefeller Administration in New York should be welcome news to students of state government with a particular interest in the governorship, a topic suffering from neglect. This book is of major importance not only because it deals with a most energetic and innovative governor of a large state, but also because the authors had access to Governor Rockefeller, his key staff members, and the archives of the executive chamber. In addition, the authors interviewed major state and federal officials as well as party leaders who had close contact with Rockefeller.

A short review cannot do justice to a book that covers the Rockefeller years in New York State in a relatively comprehensive manner. His role as party leader, his campaign organization and style and his reliance upon public opinion polls are documented fully. The authors write "it was not only Rockefeller's liberal programs and rhetoric that made him persona non grata with large segments of his party, but also his approach to government. For Rockefeller was a problem solver. . . . But problem solving leads to activist government and expensive government" (p. 72).

Whereas the public generally assumed that Rockefeller dominated the state legislature during his nearly fifteen years in office, Connery and Benjamin stress that Rockefeller avoided certain issues for political reasons, conducted negotiations with the legislative leaders and individual legislators when in need of votes, and was rebuffed on occasion by the legislature.

The most important fiscal and organizational development of the Rockefeller administration was the establishment of state-controlled public authorities on a regional and a statewide basis to attack pressing problems. The corporations are not subject to the state bond referendum and civil service requirements, and by 1973 accounted for approximately one-third of all state spending.

The treatment of Rockefeller's successes, failures, and problems is balanced. Rockefeller is not placed upon a pedestal, but rather appears as a very human governor who did not always make the correct decision.

While a chapter is devoted to the Governor and Washington, it is surprising that the authors failed to stress Rockefeller's views on federalism, one of his favorite subjects, and the implications for the federal system of the increasing preemptory actions by Congress subsequent to 1965.

This volume builds upon *Governing New York State: The Rockefeller Years*, a volume the authors edited in 1974. Unfortunately this new book, like its predecessor, contains minor factual errors. Most disturbing is the large number of such errors which could have been eliminated by careful editing. Nevertheless, this book will become a standard reference work on the Rockefeller administration.

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ROBERT DALLEK. *Frankin D. Roosevelt and American Foreign Policy, 1932–1945.* Pp. xii, 657. New York: Oxford University Press, 1979. $19.95.

GRAHAM J. WHITE. *FDR and the Press.* Pp. xiii, 186. Chicago: University of Chicago Press, 1979. $13.95.

Robert Dallek's study of Roosevelt and foreign affairs is history on the grand scale. It is the fruit of long years of labor and is based on a wide knowledge of all that has been written about Roosevelt and extensive research in the Franklin D. Roosevelt Library, the British Public Records Office, and the private papers of Roosevelt's contemporaries. Dallek is well balanced in his judgements, painstaking in unraveling the many factors influencing Roosevelt in his decision-making, and clear in presenting the relationship of domestic to foreign affairs.

Roosevelt's genius lay in the clarity of his goals and in the flexibility with which he moved from giving priority to domestic or foreign affairs according to the crises facing the nation. From the first he showed a deep concern with foreign affairs but he subordinated this interest to seeking remedies for the severe economic problems facing the country. To focus on the frightening international developments would only serve to confuse the public, divide his supporters, and endanger his domestic program.

After 1935 foreign affairs occupied more and more of his time. He viewed the prospect of a general European war with horror and he would have preferred to pursue a bold course that would discourage the aggressor nations, but he patiently accepted the fact that to do so would only serve to give the isolationists the upper hand. He entertained a deep hostility to the dictators, avoided appeasement, but in the frightening months after Hitler's victories in Europe moved with great caution as he waited for events to move public opinion toward support of bolder measures. During World War II he sought to win the Soviet Union over to mutual understanding and on occasion catered to Stalin's demands but Dallek contends that he was never naive about the difficulties ahead.

Dallek is clearly an admirer of Roosevelt but he does not hesitate to point out his faults. In the two years before American entry into the war Roosevelt could be devious, a fact that Dallek holds led to a dangerous precedent, but excuses him on the ground that it was in a worthy cause. He writes:

> Roosevelt made his share of errors in response to foreign affairs. His acceptance of Britain's lead in dealing with the Spanish Civil War, his sanction of wiretaps and mail openings, his wartime internment of the Japanese, and his cautious response to appeals for help to Jewish victims of Nazi persecution were unnecessary and destructive compromises of legal and moral principles. Beyond these matters, however, I believe that too much has been made of Roosevelt's shortcomings and too little of the constraints under which he had to work in foreign affairs.

This volume is without question the finest book on the subject.

Graham J. White's *FDR and the Press* is a fascinating inquiry of a much more limited problem. The author contends that Roosevelt exaggerated the hostility of the press. Rather than the usual estimate of 85 percent of the press being hostile, White offers figures that reduce this to 65 percent. The President not only read newspapers avidly, he searched for biased reporting and, on occasion, protested in a petty spirit. Columnists and newspaper owners provided targets for his most severe censure.

White speculates as to possible reasons for this obsession. He acknowledges that the Hearst papers, the *Chicago Tribune*, and Pegler were outrageously unfair and that their treatment of the President explains in part Roosevelt's deep feelings. The author also plays with the possibility that Roosevelt felt he was on the right course when he met opposition from the press. However, he dismisses these speculations and chooses to explain the President's hostility as his Jeffersonian political philosophy.

In 1925 Roosevelt read Claude Bowers' *Hamilton and Jefferson* and embraced Bowers' interpretation with zest. He reviewed the book for the *New York Times*, urged all Democrats to read it, and proposed to Bowers that he should put out a

cheap edition and engage peddlers to sell it from house to house. Bowers' "Jefferson" became his guiding light and he now viewed himself as the Jeffersonian fighting vested interests, particularly the press, which stood in the way of the public becoming informed. Historians today hold Bowers' book in low regard but would not deny that it was a persuasive piece that swept many into the camp of Jeffersonian admirers. As interesting a point as the author makes, historians are likely to view it as too simple an explanation.

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JOEL HAVEMANN. *Congress and the Budget*. Pp. viii, 247. Bloomington, IN: Indiana University Press, 1978. $12.95.

In the book under review, the journalist has beaten the academic to the punch in examining and evaluating a new set of political institutions of major significance. Though the title of the book is not fundamentally inaccurate, it does not suggest the primary target of Havemann's inquiry—a study of the origins and operation of the Budget and Impoundment Control Act of 1974. It is a worthy inquiry combining fact, analysis, and evaluation in distinguishable and balanced proportions.

The author has monitored the progress of congressional budgeting at first hand since 1974 as a staffer on regular assignment for the *National Journal*. However, this study is far more than a careful accounting of how "this happened and then that happened." Havemann's narrative reveals a mature grasp of much of the important legislative politics and process research literature. Thus, for example, this is a book which, in discussing the brand new congressional budget committees, works from a base informed by Fenno, Manley, Wildavsky, Fisher, et al. Such scholarly moorings inspire confidence in the use of his own interviews which the author brings to the study.

The work is comprehensive in coverage. Havemann surveys the political-historical background to budgetary reform; the first years' experience with the new system; the functioning of the two congressional budget committees (with due attention to the importance of legislative personalities in negotiating some hostile shoals in the early days); the somewhat more controversial Congressional Budget Office under Director Rivlin; and the interestingly evolving implementation of impoundment controls.

The author is sufficiently modest and necessarily intelligent enough not to imply that a political or policy revolution has taken place before his watchful eyes on Capitol Hill. He does, however, present a convincing case for believing that the sum of several incremental adjustments which the new legislation either forced or encouraged is impressive—both in terms of its impact on the legislative process and on rational economic policy management. Thus—and to supply examples—while major spending priorities have not been substantially altered in the last few years, congress does seem to have accepted the discipline of fixed decisionmaking deadlines and to have benefitted intellectually from the heuristic qualities of the enterprise. More legislators seek the big economic picture. More legislators (both liberal free-spenders and conservative budget-balancers) question their own ideological assumptions. Any institutional change that can accomplish those ends surely deserves the attention it has received at Joel Havemann's hands.

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ARTHUR S. LINK et al., eds. *The Papers of Woodrow Wilson*, Vols. XXVII, 1913, Pp. xxxii, 590; XXVIII, 1913, Pp. xx, 629. Princeton: Princeton University Press, 1978. $25.00.

Wilson is now President of the United States and the tone of this landmark series changes. The editors note where they have been and where they are going. Misspellings and the like will receive less attention, unless they affect meaning. Some ephemeral messages and man-

uscript versions will be less elaborately edited. The weight of correspondence changes as Wilson pens notes in haste to friends and ignores other writings. Indeed (27, p. 16) he rejects publisher Scribner's suggestion of a new printing of his *An Old Master*, which contains matter which might be misunderstood today; that is, in 1913. He anticipates editions of his works, but not just now. Volume 27 deals with Wilson's speeches and correspondence as President-elect and then from April to June, 1913. The series has a long way to go.

The bulk of correspondence shifts from that which affected Wilson's dealings with Princeton and New Jersey politics, as well as the strategy which made him President, to high politics. Much of Volume 27 involves Cabinet and other appointments and patronage. The papers of William Jennings Bryan, Josephus Daniels, and others fill out Presidential concerns. Looming high are the diaries and other matter of Colonel House who rejects offers of appointment to become Wilson's indispensable other self. House's sense of politics is outstanding. His sense of the layers of American interest and consciousness is low, and helps account for the quick forgetfulness Wilson will suffer in the 1920s.

Wilson moves gracefully into the Presidency; he maintains an active interest in New Jersey reform bills even while picking up affairs of national and international importance. His personal life is affected—it has been affected before—by his long hours committed to questions of state; close reading brings out some details for those interested. For instance, he confides to House (27, p. 113) that "he thought that lying was justified in some instances, particularly when it involved the honor of a woman." A passage worth noting (28, p. 249) repays study because he is so rarely self-critical; in it he upbraids himself, in a letter to his absent wife for his "absolute disloyalty to all that is best and (I believe) most real and permanent in me; how often can I make myself seem exactly what I know I am not. . . . I pray God you . . . will see truly through all the strange disguises I weave about myself."

The great issues of tariff, currency, and banking reforms, inaugurated during Taft's administration, mount up and are developed through Volume 28, which carries Wilson from June 23 to December 1, 1913. The terrible war between union men and mine owners in Colorado calls into being the great Commission on Industrial Revolutions. Also in work are plans and politics which will result in the Clayton and Seaman's Acts. But foreign affairs also dominate the news, especially from Mexico.

Less conspicuous—ignored, for example, in Wilson's press conferences—is Wilson's South-inspired policy of segregating Negro civil employees. It rouses protests from such N.A.A.C.P. stalwarts as Oswald Garrison Villard. Wilson is ingenuous in responding (28, pp. 185–6, 191) that he is too taken up with the Mexican and currency questions to deal firmly with it. He has already agreed with his friend Thomas Dixon, Jr. (p. 94) that the races ought not to be mixed. Faithful reportage gives us a full view of the situation.

Doubtless many of Wilson's blurred or blind spots are in the nature of his position; as he says, he must act as leader of a national party. A letter (27, pp. 242–4) from such social work leaders as Brandeis, Homar Folds, Florence Kelley, and thirty-two others offers a concentrate of a program for social renewal which reads like a lost opportunity. Wilson's priorities do affect the tide of national affairs, and give some hint of the troubles ahead which will make Progressivism seem more secure in national regard than ever, but which will ultimately prove its undoing.

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JUDY BARRETT LITOFF, *American Midwives: 1860 to the Present* Pp. xi, 197. Westport, CI: Greenwood Press, 1978, $15.95.

Many areas of social life were not traditionally controlled by men but have only recently come to be dominated by the male sex. Feminists and others have demonstrated that in nineteenth century

Britain and America ideas concerning female psychology and physiology—and therefore pregnancy and childbirth—centred around the doctrine of the inferiority of the female person and the need for increasing domination by the male medical profession. Some of this work involves considerable speculative theorizing and feminist polemic, but much (for example, the work of Carroll Smith-Rosenberg) is an important addition to explanation of the social and ideological mechanisms through which the subordination of women operated (and still operates). It is regrettable, therefore, that Professor Litoff's study of the takeover of the management of American women in pregnancy and childbirth by male physicians should largely disregard this previous work.

Litoff makes no claims that hers is a definitive study of the decline of midwives in America and bases her findings on the records of six states. Although these records are supplemented by other sources, over-reliance on public records inevitably results in a bias towards "official" explanations. In this respect, Litoff's work compares unfavourably with Donnison's study of midwives in Britain, which relates the changes in the status of midwives to wider social changes, in particular those which affected women.

Throughout Litoff's study, midwives themselves as well as their clients appear as rather shadowy figures. Given that both were frequently poor, illiterate, immigrant or black, this is perhaps inevitable, but oral and less conventional sources might have been more revealing. Despite these limitations, Litoff shows clearly that as American medical practitioners became more powerful, more professionalized, and more specialized they were able to pronounce that pregnancy and childbirth were not 'natural' but required specialist treatment by medical practitioners.

Obstetrics became a lucrative practice but although midwives gradually disappeared American infant mortality rates still remain comparatively high for a modern industrial society. The predominantly male medical profession succeeded in phasing out the female midwife with little opposition except from relatively powerless health officials. In Britain, greater emphasis on public welfare legislation and control perhaps explains the early registration of midwives and their continued (if subordinate) role in the management of childbirth, whereas the individualistic ethos of America allowed the highly paid male professional to triumph in this most feminine of spheres.

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OTTO J. SCOTT. *The Secret Six: John Brown and the Abolitionist Movement*. Pp. 375. New York: Times Books, 1979. $15.00.

Otto Scott has written this book several times before, although under different titles. The career of John Brown is merely incidental to Scott's main task, which is the exposure and condemnation of conspiratorial radicals. An earlier version was his *Robespierre*, which closed: "[Robespierre] inspired more . . . Lenins and Castros and Maos, more murder and hatred, more death and misery than any other of the Sacred Fools that have emerged to plague honest men." Similarly, *The Secret Six* ends by linking abolitionism with "socialism, anarchism, and other causes. . . . The revolutionists of Europe draw comfort from the efforts and results of John Brown. To them he became a sacred fool." Conducting his crusade from another angle in *The Professional*, a laudatory biography of a Texas oilman, Scott penned a paean to big business, attacked liberals and reformers, and warned against the evils of government regulation of the oil industry.

Quite aside from the tiresome, repetitive nature of his polemics, Scott's *Secret Six* suffers from some serious problems. His bibliography reveals an almost total dependence upon secondary sources, with the minor exception of three or four memoirs. He apparently did not read any contemporary newspapers

or consult easily-accessible manuscripts —there are well over a dozen separate collections of John Brown's letters and papers, not to mention those of the other principals. Even more puzzling is Scott's attempt to undertake an analysis of the abolitionists without considering the institution which they sought to eliminate: slavery. His most penetrating observation on the lot of slaves is "Their condition was, generally speaking, deplorable."

In tracing the progress of Brown's turbulent career through Kansas and Harper's Ferry to the gallows, Scott overlooks no opportunity to pillory his subject. Brown's early failure as a wool broker was a fate "common to many men who do not believe a free marketplace sets fair values." (Would a greater respect for capitalist principles have altered his bloody destiny?) After describing Brown's efforts to raise money for settling the Kansas territory with "Free Staters," Scott observes, "No doubt much of the money he collected flowed, not to Kansas, but to his family" —yet cites no evidence to support this charge.

The one redeeming quality of *The Secret Six* is that it is well-written, although Scott does tend to be overly dramatic. Northern newspapers "shrieked" twice on page 41 and singly on other pages, "wailed" on 32 and "screamed" on 62. Abolitionists "howled" on 16 and 25 and Southerners "crowed" on 32. Readers seeking a reasoned and well-researched biography of John Brown are directed to Stephen Oates' *To Purge This Land With Blood.*

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JOHN E. SEMONCHE. *Charting the Future: The Supreme Court Responds to a Changing Society*, 1890–1920. Pp. xiii, 470. Westport, CT: Greenwood Press, 1978. $25.00.

American society experienced the first impact of industrialism in the years between 1890 and 1920. It was a time of upheaval and rapid change when virtually all institutions had to adjust. But according to many historians, one institution, the Supreme Court, failed to respond in that period. As the states and the national government moved to redress imbalances in the industrial society, following the traditional view, the Court maintained a hostility to government exertion and served mainly to place obstacles in the path of the popular will.

But John E. Semonche, an established scholar of modern American legal history at the University of North Carolina at Chapel Hill, takes a fresh view of the work of the High Court in this critical period and challenges the traditional interpretation. Admittedly the Court developed the due process clause as a potential check upon the arbitrariness of state and local action, but in practice the Justices consistently refused to place any business beyond the pale of regulation in the period 1890 to 1920. Actually it was only *after* 1920, when the Court was loaded with the appointees of William Howard Taft, that the Justices tended to view their primary function in inhibitory terms and invalidated far more due process cases than in the previous thirty years.

Semonche finds that in the earlier period the Justices did their best to modernize the fundamental law and to accomodate the new exertions of government in the complex world of the twentieth century. In the commerce clause and in the taxing provisions the Court found a reservoir of power that enabled Congress to address matters long considered to be the exclusive preserve of the states and to legislate on the basis of a recognized interconnectedness of the national economy. Also, during World War I the Court gave a broad reading that found little limitation on the actions that could be taken in support of the war effort. The one area where criticism of the Court in this period is justified is its consistent hostility to union activity. But Semonche points out that even this cannot be broadened to hostility to the working class since the Justices regularly upheld legislation aiding the laborer, with the exceptions of the *Lockner* and *Hammer* cases.

Semonche offers a brief, readable introduction to the twenty-six Justices who sat on the High Court in this period, several of whom are quite obscure. For this he relies a good deal on the biographical sketches in *The Justices of the United States Supreme Court* edited by Leon Friedman and Fred L. Israel (1969). More importantly, Semonche captures some of the drama of the Justices' work within the political, economic, and intellectual context of their times. It is a well crafted synthesis that weaves together personalities, cases, and historical forces. Some readers may find it cumbersome at times dealing with numerous personalities, events, and cases (including majority and dissenting opinions) in a single narrative. But overall Semonche articulates his thesis clearly and brings insight to a period of Supreme Court history that is too often neglected.

Specialists familiar with the literature on the Court will find little in this book to add to their understanding of any of the major cases of the period. But the general reader and the serious student of American constitutional history will find it a useful supplement to the work of G. Edward White, John P. Roche, Henry J. Abraham, Alan F. Westin, Robert G. McCloskey, and others who have considered the Court in this era. Semonche's review of all the cases decided by the Supreme Court from 1889 through the 1920 session brings him to the conclusion that this was a seminal period when the Court grappled with the new problems of American society and modernized the fundamental law. At times his case is not all that compelling as it is laid largely on opinions by dissenting Justices. But the author clearly succeeds in correcting the view that the Supreme Court prior to 1920 was little more than an instrument of obstructionism.

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RICHARD H. TIMBERLAKE, JR. *The Origins of Central Banking in the United States*. Pp. ix, 272. Cambridge, MA: Harvard University Press, 1978. $18.50.

In this volume are brought together a series of journal articles, newly edited, and with materials to fill gaps and round out an account of U.S. monetary policy from 1791 to the establishment of the Federal Reserve System in 1914. Although a number of well-known studies have dealt with parts of this time framework, this study stands out by covering the entire period and focusing on monetary policy formation and monetary standards.

The book begins with the First Bank of the United States, then proceeds to Treasury policy after its demise, the role of the Second BUS, the Independent Treasury System before and after the Civil War, specie resumption, silver actions, and the fight for a central bank.

High points include an examination of the period 1811–1820 in which the inflation and ensuing depression are attributed not to the mushrooming and failures of state banks after the First BUS expired but to the heavy issues of interest-bearing Treasury notes which served as money (especially in the form of bank reserves) and their subsequent retirement. Another high point is the emphasis on the Independent Treasury's employing monetary policy from 1846 to 1860 through use of Treasury vault cash to buy government securities. Pictured also is an early use of a quasi-automatic framework for monetary and fiscal stability: depression-created federal deficits leading to issues of interest-bearing Treasury notes with near-legal tender properties to pay federal government bills. Another strength is use of Congressional debates along with statements and reports by the secretaries of the Treasury, both often revealing a surprising degree of sophistication.

This very useful book also has difficulties. Most serious are the questionable ideological judgments. The author, for example, apparently objects to central banks! Thus, referring to Treasury actions in the early 1900s, he states that "what was needed was not a central bank that would grow into an ominopotent ogre constantly promoting inflation but simply a resolution from Congress specifying the limits to Treasury au-

thority and actions" (p. 185). In turn, he longs for a return to specie standards, observing, "The only hope is that legislatures will recognize the absolute powers assumed by most central banks and will impose rules for central bank behavior that result in monetary expansion approximately the same as what was achieved under specie standards" (p. 226).

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SOCIOLOGY

KAREN DAVIS and CATHY SCHOEN. *Health and the War on Poverty: A Ten-Year Appraisal.* Pp. xiv, 230. Washington, DC: Brookings Institution, 1978. $11.95.

After several years of reeducation on the limits of social policy, it is refreshing to find a well documented (as well as is currently possible) case for the effectiveness of just such a policy; in this instance, the major health programs enacted during the Johnson Administration. Karen Davis and Cathy Schoen have written a careful, lucid, and finally optimistic evaluation of Medicare, Medicaid, and the Neighborhood Health Centers program.

The best news is that access to health care increased dramatically among the poor between 1964 and 1974. The differential between poor and nonpoor in use of physicians' services actually disappeared. There is some good news even with regard to cost. The cost per client of the Neighborhood Health Centers is comparable to or less than the cost of a private physician, and this includes the kinds of comprehensive care not available through the private physician.

As the authors state, it is too soon to evaluate completely the Neighborhood Health Centers program. But, on the basis of some individual case studies, an impressive argument can be made for them, especially when one considers their anemic funding history and general lack of support during the Nixon-Ford years. This program seems to have captured the authors' hearts and it has this reviewer's sympathy as well.

Has increased access given the poor better health? The answer is mixed. It seems clear that mortality rates have been positively affected as well as some acute illnesses among some of the poor. As for other conditions, time may or may not tell since, for poor and rich alike, health care and health are not directly related.

What's wrong with health care after ten years of these programs? Plenty, of course, and the authors are as honest about failure as about success. There are huge gaps in these programs. The working poor are scarcely touched; 60 percent of the rural and 45 percent of the urban poor are ineligible for Medicaid; poor children are still underserved; and payments per white recipient are significantly higher than those for blacks. In fact, Davis and Schoen call for "sweeping reforms" of Medicaid, not the least of which includes an integrated national health care system which can address problems of access, range of services, and cost at the same time. The reformer's bugle sounds a too familiar tune, perhaps; but this study just may convince you that it can be done.

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NANCY FONER. *Jamaica Farewell: Jamaican Migrants in London.* Pp. ix, 262. Berkeley: University of California Press, 1978. No Price.

While American sociologists interested in international migration have focused mainly on migrants to the United States, anthropologists, both here and abroad, have been rounding out the view by investigating migration around the globe. Nancy Foner first studied Jamaicans in their native rural habitat. She then followed some of them across the Atlantic and examined their adjustment (or lack of it) to metropolitan London. Her findings are reported in *Jamaica Farewell.*

Foner's theoretical interest centers around the various status changes ac-

companying the transition from rural Jamaica to the British metropolis. She draws attention to what sociologists have known for some time, namely, that humans occupy multiple statuses at any one point in time and that these are not necessarily coordinated. Discrepancies naturally stand out more clearly in transitional situations. For example, while Jamaicans generally raised their consumption-level as a result of migration, they lost status as blacks at the same time.

The author also reminds us (something we sociologists supposedly know, but in our modesty often fail to mention) that an aggregate of immigrants (like any social category) has its components, not all of which are likely to experience the uprooting process of migration in the same fashion. Thus, women, more than men, express satisfaction with the changeover which brought them increased opportunity for gainful employment and a concomitant rise in status both within and outside the family. And, of course, different age aggregates evaluate differently the advantages/disadvantages of life in London relative to that in a Jamaican village.

In all, we have here a rather fine product. Except for some fuzziness in the analysis of sex differences (to be expected in a subject area enjoying high fashion), *Jamaica Farewell* contains both competent social science reportage and sound theoretical discussion. The appended bibliography with some 200 entries, two-thirds of which are from the 60s and 70s, is a welcome bonus.

However, one observation—by no means meant as criticism of the author—is in order. The subject area of international migration as well as the theoretical areas of status change and status consistency have been of long-standing interest to sociologists. Yet, anthropologist Nancy Foner refers but slightly to relevant sociological literature. As indicated, our author can hardly be blamed. During the last few decades, anthropologists have zealously and successfully pursued their quest for organizational and professional segregation. (Sociologists, incidentally, did not seem too saddened by their erstwhile colleagues' departure—thus rendering the "love" mutual). While independence opened opportunities and yielded some excellent social science, it also brought along what Durkheim once identified as one type of "anomic division of labor," involving both unnecessary duplication and frequent critical disregard of work done across the artificial divide. One hopes that the current depession in academia will have at least one positive result. Necessity may drive academicians out of their artificially constructed segregated niches and force them to confront colleagues—and their work—across disciplinary lines. Who knows, they may even like what they find.

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IRA GOLDENBERG. *Oppression and Social Intervention*. Pp. xii, 213. Chicago, IL: Nelson-Hall, 1979. $10.95.

According to this book, most Americans do not control either their own lives or the society in which they live. Whether we are conscious of it or not, we are in the depths of a sea of social and personal estrangement, alienation, and detachment, with nowhere to go but further under—unless drastic remedies are pursued. We are, in other words, enveloped in the throes of oppression.

The oppressors are the major agents of social incorporation (such as industrial employers, government agencies, schools, and the mass media) which exhort and cajole Americans into believing that personal happiness and autonomy accompany the attainment of material goods. This message, as interpreted by Goldenberg, is just so much poppycock. Powerless people (the poor, women, and racial and ethnic minorities) quickly discover the emptiness of the rhetoric because they are systematically excluded from ever securing material assets. The more affluent realize their

oppressed status as the possession of goods comes to leave them without personal satisfaction and communal attachment.

Most of the oppressed cope with their affliction through adaptation, displaying diffuse rage (either internally or externally), or by engaging in some form of quiescent behavior. None of these reactions solves the basic problem of oppression; indeed, each perpetuates its continuation. According to Goldenberg, oppression must be met head-on, with its victims joining together nonviolently to challenge and supplant the institutions and values that create this psychological and social disorder. Enter the social interventionists, they realize what causes oppression and are willing to participate in its alteration.

Goldenberg's insights are based mostly upon apriori assumptions about human nature and societal development, the studies of other scholars, and his own personal experiences, which constitute some of the most poignant and memorable examples supporting his argument.

Persons who lack confidence in the human capability to create a humane society, once the forces of oppression are uprooted, will probably reject the inquiry summarily. Social scientists will balk not only at the lack of systematic evidence at key points, but also at the constant suggestion that scientific inquiries are (usually) nothing more than another means of oppression. Some sympathizers of Goldenberg, will find fault with his failure to examine thoroughly the powers that be in the United States. Such an omission is unfortunate since so much of his argument hinges upon the might of the oppressors.

We are left with little knowledge about those who occupy key positions of power and how effective they are in exercising their influence. The inclusion of such an analysis might have tempered some of Goldenberg's points. For instance, his indictment of potential interventionists who have withdrawn from social commitment in the 1970s probably would not have been so narrow if he had sufficiently weighed the power of the oppressors. He might also have avoided the apparent contradiction of urging the economic powerless to strive for affluence in a society where those in control exist on the very powerlessness of these people.

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ORRIN E. KLAPP. *Opening and Closing: Strategies of Information Adaptation in Society.* Pp. x, 226. New York: Cambridge University Press, 1978. $13.95.

The present volume is part of the American Sociological Association Rose Monograph Series. It is sub-titled: Strategies of Information Adaptation in Society. The book should be of interest to all social and behavioral scientists regardless of their particular discipline specialization for it deals with the very core charge of science, how do we make sense out of the world in which we live. The focus in this volume happens to be making sense out of communication and information.

Before evaluating Klapp's theoretical model, comment must be made relative to style. The book is both lucid and interesting. It will captivate and hold the attention of both professional and lay person. Whether one agrees with Klapp will not be the issue for his theoretical model offers something for everyone. He presents careful substantiation of the major components and concepts of his model; he presents hypotheses both explicit and implicit that offer lucrative ground for future research. His model seems to fit the reality of information exchange and adaptation in society. Certainly, it challenges us to proceed to the task of verification. Throughout the work, substantiation is drawn from a wide variety of academic disciplines and life experiences.

The key concepts of the model include: opening, closing, social noise, balance, entropic communication, and redundancy. Whether one is interested in the societal-macro level or in the individual micro level, these concepts and the framework into which they are

woven by Klapp should prove helpful. Social scientists currently seem to be decrying the gap between theory and empiricism. Klapp has set an example of how these two levels can be combined. He ties together a number of observations previously of interest mainly to professionals in select sub-disciplines. He weaves these observations into generalizations and utilizes them in his theoretical model. He also deduces from the model in a way that challenges the parochialism of our disciplines.

Readers who were intrigued by observers such as Rakeach and McLuhan will surely praise the Klapp book; it captures the state of knowledge or information and pushes it to a new height.

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OTTO KLINEBERG et al. *Students, Values and Politics: A Cross-Cultural Comparison*. Pp. ix, 342. New York: Free Press, 1979. $15.95.

In the mid-sixties student activism on university campuses took on militant dimensions in many countries. Before that time university students in European countries, the United States, and Canada had been viewed as relatively uninvolved in national political issues and social change. The collective force of student revolts in different countries around the world resulted in the generation of many views regarding the motivation, nature and consequences of the "student movement." Some of the views presented in the rather substantial social science literature on the student movement are data based while others are more speculative. Indeed, all of the literature on the international character of student activities presents propositions that are largely hypothetical. The methodological problems in assuring reasonable internal and external validity and the resources required to conduct carefully controlled research in this area are enormous. No social scientists are more aware of these problems than Professor Otto Klineberg and his associates, authors of *Students, Values and Politics: A Cross-Cultural Comparison*.

This cross cultural study, based on a survey administered by Professor Klineberg and his associates in 1969–70, provides unique and valuable data on the worldwide student protest movement of the 1960s. Their sample included over 10,000 university students in 11 countries.

One goal of the research was to determine the extent to which an international youth culture exists. While the authors acknowledge the sampling problems, including their decision to collect data only on university students and not on other youth, which seriously limit their ability to draw a definitive conclusion relative to the existence of a worldwide youth culture, they interpreted their data as indicating there is no single pervasive youth culture, even if restricted to the case of students.

Another goal of the study was the investigation of the relation between student attitudes and political identification. The authors present considerable data establishing important relationships in this regard. Finally, Klineberg and his associates investigated the extent to which the results of research on students in individual countries applied in the sociopolitical and cultural context of other countries.

The authors point out that the most important contribution of the study is that it is probably the only study attempting to get answers to the same questions from students in many different countries. It provides uniquely a multinational comparative portrait of student views and opinions on the "ideal society," culture, education, the generation gap, and many other topics of concern to students. In addition to their failure to find evidence of a multinational youth culture, the authors report many interesting and provocative findings. Among these are the following: there is more of an intragenerational gap than a conflict between generations; in countries other than the United States it is not the case that students on the far left are attempting to put into effect ideas held by their liberal, well-to-

do, well educated parents; there is a general tendency for students on the far left to be more frequently found in the social sciences than in other areas; and a large proportion of students on the far left tended to be nonbelievers or atheists, with a negative attitude toward religion.

The authors present some limited followup data (1977) which indicates a persistence of attitudes identified in the basic study (1969–70). The sample is so small, however, as the authors point out, any conclusion in this area should be drawn with considerable caution.

Klineberg and his associates have carefully prepared a scholarly report on a very difficult and important topic. The literature review is excellent, the data are rich, the analyses are appropriate, the findings are helpful, and the conclusions are reasonable. The report is well written, conceptually clear, and honest. While the authors focus more on their data and less on the development of theory related to student movements, they have provided a provocative foundation for other scholars interested in the social psychology of student movements.

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DANIEL A. MAZMANIAN and JEANNE NIENABER. *Can Organizations Change? Environmental Protection, Citizen Participation, and the Corps of Engineers*. Pp. x, 220. Washington, DC: The Brookings Institution, 1979. $11.95.

Companion to the chillingly titled *Are Government Organizations Immortal?*, this volume attempts to gauge a federal agency's response to newly articulated public demands. The agency in question is the Army's famed Corps of Engineers; the demands, those set forth by the emerging environmental movement in the late sixties and early seventies.

The authors could hardly have chosen a better subject for a case study in bureaucratic behavior. Like the dams it builds, the Corps has long been known for its solidity and immobility. Acting in concert with congressional allies and local business interests, it has helped fashion a kind of military-construction complex whose projects have often elicited criticism on grounds of cost and utility, as well as environmental impact.

How well did the Corps respond when confronted with environmentalist pressure? According to the authors, as a result of such pressures, "there have been pronouncements of dramatic new missions, a substantial degree of reorganization, and to a lesser extent changes in the agency's decisionmaking process. . . . Today the Corps has a more positive image than it did, say, 10 years ago."

The irony is unintended but the wording is exact for, as the authors' own evidence demonstrates, the Corps devoted far more attention to changing its image than it did to changing its operational priorities. True, Corps generals did issue environmentally conscious memoranda, and professional environmentalists do now work side by side with the traditional (and elite) engineering staff. But the authors offer little substantive proof that these changes have made much real difference in planning or project implementation. On the contrary, the Corps' few experiments with open planning, which gave outside environmentalists a real chance to be heard and consulted, have long since been shelved. Meanwhile, a huge backlog of Corps supported pork barrel projects, some dating from the forties, remain on the construction agenda.

Can Organizations Change? is thus a most disappointing book, in which the authors' evidence constantly clashes with their conclusions. Too ready acceptance of official sources, illogical and impressionistic statements, and resort to superfluous models and jargon further vitiate this study's scholarly value.

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GEORGE EATON SIMPSON. *Black Religions in the New World*. Pp. ix, 415. New York: Columbia University Press, 1978. $25.00.

Some authors display their efficiency in being able to organize material and statistics in order to summarize and draw responsible conclusions and generalities. Others show their strength in the specific analysis of details. George Eaton Simpson, a well known sociologist and anthropologist, has shown his superb ability to combine both features in his treatment of "Black Religions in the New World." Some authors have proven their ability in research of existing writings and manuscripts. Others have demonstrated their strength in examining specific practical life situations. George Eaton Simpson has shown this proficiency in both of these talents.

A product of forty years of both technical research and realistic fieldwork has produced for our author both a keen sense of analysis of some specific systems of religious belief on the part of the black populations of the New World and a masterful summation and generalization of the religious attitudes and their causes in the New World countries. Especially not to be overlooked are his extensive endnotes, glossary, bibliography and index of subjects.

His first chapter is a successful attempt at defining the kinds of religious systems adopted and developed by the black population. While this reviewer does not completely agree with his general assumption that "Religious ceremonies take believers away from mundaine affairs of life," he appreciates many of the other general conclusions the author comes to, such as the "emotional support" gained by members of the religious groups who were forced to live in what appeared to them to be a "hostile environment." The factors of socioeconomic and psychological background are well spelled out by the author who defines their role in developing the many religious tendencies of blacks and their survival.

The intermediate chapters are geographically distributed into the major areas and countries of black populations in the New World and give us detailed pictures of their beliefs and practices. A good deal of the author's analytical skill is presented in the last chapter where he provides a comprehensive summary. He contrasts the development and features of the so called "New Religions" with the features of the existing religions taken over and adjusted by blacks in their search for the heavenly truth, and reviews the gains and costs of the various developments of Black Religions.

In an age when the black populations have been succeeding in the development of their own identities and standing in the New World, many authors have paid great attention to their social, economic, and political strides. Not enough attention has been given to their religious development. Thus our author has successfully filled a need and made a specific contribution to the study of black culture. While he refers to the black culture in the West as existing in the medium of a "Black Diaspora," he does realize that this "Diaspora" has become a "Home" of dignity and acceptance for blacks who by and large prefer living here in the West rather than returning to their original homeland in Africa. Perhaps the original glaring evil of slave trade has finally been balanced by the positive accomplishments of the well respected and dignified status of black religions in a new homeland.

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ALAN L. SORKIN. *The Urban American Indian*. Pp. xiii, 158. Lexington, MA: D.C. Heath, 1978. $16.95.

Alan L. Sorkin's *The Urban American Indian* is, more than anything else, a powerful indictment of this country's insensitivity toward the Native American members of its national family. With the precision of a trained economist loaded down with massive statistical illustrations, Professor Sorkin shows clearly that

city-dwelling Native Americans earn average incomes far below others who call urban America home. Most live in substandard apartments unfit for habitation; encounter overwhelming problems with an urban school system that recognizes not their rural, reservation background; endure an average health status that is not only worse than others in the city but is worse still than the health care they had back home on the reservation; live daily with an incredible social and educational dropout rate; and try to cope with unbelievable alcoholic problems, and Indian centers and support organizations that are sadly wanting because federal, state, and local governments refuse the tools that might make assistance possible. So what else is new!

One reads these nine chapters of sorrow and finds himself cringing even though he knows full well that reservation Indians suffer equal horrors. Worse still, he knows from the growing Native American literature that the lack of concern faced today, the continuing pressures from those who demand acculturation, and the terror of being the least accepted of strangers in their own land are the same problems faced by Native Americans since white feet first reached our shores.

More important than the tale of woe neatly summarized and illustrated by Sorkin in this excellent pioneering volume is the realization that life is no better for Native Americans today than it was decades ago. The 150 million acres set aside for reservation life in 1873 is now only one-third that size, while population increases and the government, spurred on of late by the knowledge that rich minerals—especially coal, gas, and oil—rest under the remaining land once thought useless, tries to pressure more and more reservation dwellers to forsake the land—using techniques that would make Madison Avenue hucksters proud—for the charm and opportunities available to us all in America's cities. And when these ill-prepared Americans take the bait and leave their beloved land for the hegira to the land of milk and honey, they bring large families, few skills needed in technology-oriented urban America, and social and educational backgrounds that nearly ensure failure. So the bottle of the reservation is replaced by the bottle of skid row, and we all die a little in the process.

This volume is highly recommended to all Americans who are sick and tired of viewing from the sidelines the rape of a noble people who for over four hundred years have refused to deny their heritage and accept others' ways. They may have to do so in the urban slums that sicken us all, but that fate need not engulf them further. Their plight deserves to be recognized, their cause championed, and their needs met by the infusion of money and organization that can easily be supplied by national, state, and local constituencies that believe enough is enough. That is Sorkin's plea, and it is one totally supported by his data, his colleagues, and a million red citizens who deserve a chance to love their country and to dwell in it without chains.

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ECONOMICS

THOMAS M. BIERSTEKER. *Distortion or Development? Contending Perspectives on the Multinational Corporation.* Pp. xvi, 190. Cambridge, MA: MIT Press, 1978. $17.50.

MIT Press editors made a wise choice in publishing this volume. It provides a significant contribution to the question raised in the book title in a careful, balanced, and insightful exploration of multinational manufacturing firms in Nigeria. The Nigerian scene is used as a case study to frame tentative conclusions about the role of multinationals in the world economy.

Critical perspectives on multinational investment in developing countries are outlined. They include allegations that there is a net outflow of income, a displacement of indigenous production, limited and inappropriate

transfers of technologies, and adverse impacts on structures and stratification in developing nations. Local elites are fostered; indigenous entrepreneurs displaced; "inappropriate" consumption and unequal income distribution encouraged. The author also presents an equally perceptive statement of neo-conventional assessment of multinational investment. This perspective generally depicts such investment as favorable to Third World economic development. These divergent viewpoints are analyzed rigorously in terms of the first and second-order consequences of multinational action.

Biersteker next frames a testing of these conflicting viewpoints by distinguishing between matched contending propositions, mismatched and nonaddressed arguments. His discussion here is sophisticated and informative. With a structure of evaluation in hand, the book turns to the Nigerian scene in a detailed microstudy, using statistical analyses and historical exposition to confront the two conflicting perspectives "with the facts."

Unfortunately, given a complex and dynamic "real world" Nigerian economy, and the extraordinarily formidable task of constructing "crucial experiments" to demonstrate the falsity of particular propositions, the conclusions of this confrontation are ambiguous and mixed. Biersteker, nonetheless, concludes on the basis of Nigerian experience that extensive multinational investment can create obstacles to the achievement of development objectives and that assessments made by critics should be given serious attention.

The author is well aware that this effort is not the last shot fired in the discussion of multinationals. In fact, he calls for more of this kind of detailed micro probing of the impact of multinationals in an assortment of Third World countries. This could be the research agenda for a number of scholars in economic development.

The book thus turns out to be useful reading on three different levels: first, an analytical survey of critical and neo-conventional arguments concerning multinationals; second, exposition of the difficult task of testing conflicting perspectives; and finally, the testing in the context of multinational manufacturing firms in Nigeria.

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GEORGE COOPER. *A Voluntary Tax? New Perspectives on Sophisticated Estate Tax Avoidance*. Pp. viii, 115. Washington, DC: The Brookings Institution, 1979. $7.95. Paperbound $2.95.

The term "voluntary tax" in the title of this book appears at first to be a generic contradiction since everyone knows that taxes are "compulsory." However, when one considers federal wealth-transfer (estate-gift) taxation with its numerous tax avoidance provisions, the contradiction almost becomes a reality. Such is clearly demonstrated by the author of this carefully documented book who himself is a university law professor trained in estate-gift tax practice. Yet, the perspective of the book goes well beyond the narrow perspective of the typical practitioner, who is primarily concerned with how to exploit the tax law so as to attain the fullest possible tax savings for his client, and analyzes the purpose of such taxation. Moreover, the Tax Reform Act of 1976, which supposedly reduced the overall opportunities for estate-gift tax avoidance, is seen as actually having little effect on continuing avoidance practices.

An overview of the subject, and the book's conclusions, are presented in the opening chapter. This is followed in the next two chapters by a detailed description of the major tax avoidance techniques supplemented by actual case study examples. In the final chapter, the fact that some taxpayers surprisingly do not take advantage of the available loopholes is explained. Moreover, the *raison d'etre* of wealth-transfer taxation, especially in an eroded form that seriously violates the principles of vertical and horizontal tax equity, is considered with alternative approaches to reform being offered. The most promising of these reform alternatives, at least from a conceptual stand-

point, is the annual or periodic net wealth tax.

Undoubtedly, the most important question raised in the book concerns the continued existence of a tax which seriously distorts allocational decisions, makes a mockery of distributional equity, and provides a relatively small amount of revenue. Yet, the serious reader must inevitably face this question and cannot be blamed for suspecting, as does the author, that it is because the large wealth interests that primarily benefit from the eroded estate-gift tax structure (and who disproportionately influence tax legislation) want the tax retained as an illusion of significant wealth-transfer taxation for the unwealthy of the society.

In all, this book will open the eyes of many readers who long-since have appreciated the plentiful opportunities available for federal personal income tax avoidance, but who were not previously aware of the even more generous legal avoidance loopholes available for federal estate-gift tax avoidance.

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ROBERT V. KUBICEK. *Economic Imperialism in Theory and Practices: The Case of South African Gold Mining Finance, 1886–1914*. Pp. xii, 239. Durham, NC: Duke University Press, 1979. $12.75.

The varieties of European economic imperialism have exercised a peculiar fascination since J. A. Hobson's writing at the turn of the century. The debate continues, some of it based on comfortable but erroneous assumptions. The Rand gold mining industry, understandably, cannot be ignored; however, it has never been properly investigated in many of its crucial aspects, and consequently it has never found its true niche in the theory and practice of European expansion.

Dr. Kubicek's book helps to remedy this position. He briefly surveys the essential points in the literature on economic imperialism before 1914 as well as the inadequate writing on "the classic case of imperialism, the gold mines." He then undertakes a study of the mines' controllers and the capital formation connected with the gold industry's growth, endeavouring to determine how compatible the South African case is with the theories of economic imperialism.

New sources, particularly the archives of the mining houses, illuminate hitherto grey areas such as the large capital flow from Europe, the importance of this for the international scene, and the relative roles of capital and technology in the development of the Rand. We now know a lot more about the mining houses (from Consolidated Goldfields to unlucky fringe operators), their connections with capital sources in Europe, and their role in manipulating Rand mining shares. The business strategies of the mines' controllers as international developers and speculators are clarified. They stressed market operations rather than gold production. This prevented the industry from developing its full potential as a steady provider of substantial dividends, impairing its ability to draw and hold capital investment as distinct from its dependence on speculative capital. European investors were simply put off, and numerous shareholders (with "surplus" capital) were to be found widely dispersed.

By adding new dimensions to some of the theories of imperialism, this book discredits the neo-Marxist interpretations of the period. Inter alia, it also qualifies Hobson's concept of the small and middling investors; it modifies the Hilferding-Lenin notion of "monopoly finance capital" and D. K. Fieldhouse's theory of peripheral crisis. Kubicek concludes that capitalism *was* a catalyst of the "new imperialism," but not a capitalism featuring pronounced monopolistic trends. Ultimately, it could be argued that "capitalism was in competition if not in conflict with imperialism and nationalism."

This is competent, sturdy stuff, well laced with solid evidence, maps, tables, and mature judgement.

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OZAY MEHMET. *Economic Planning and Social Justice in Developing Countries*. Pp. 282. New York: St. Martin's, 1978. $17.95.

This very useful study will help many readers understand the new approaches to economic development that have transformed the West's perspective. Its author, an economist at the University of Ottawa, writes out of many years' experience in Asia, Africa, and Latin America. His proposals for reform deserve attention from students, officials, legislators, and fellow planners.

In the first part of his study, pp. 17–92, Professor Mehmet summarizes the defects of Third World economic development in the quarter century following World War II. There was GNP growth without social justice. The poor did not benefit from economic development; millions were made worse off; industrialization increased unemployment and urban slums expanded ominously.

Part II of the study presents case-study evidence from Malaysia, Liberia, Pakistan, Brazil, and Uganda showing how the elites in each country took advantage of development programs to benefit themselves. As is now generally recognized, new opportunities are most likely to be seized by those already favored by health, wealth, education, and power. Professor Mehmet shows how the governments of these countries channeled foreign aid and investment to the primary benefit of an upper-income minority, giving very little attention to the bulk of the population out in the villages. His vivid evidence augments major analyses by the World Bank and various United Nations organs.

In the six chapters of Part III, pp. 175–276, practical proposals for nonviolent reform are spelled out. Planning procedures that will enlist the participation of "target groups" are sketched. New approaches to training the labor force and educating the young are described. Programs for land reform and rural development are outlined. Finally, suggestions are offered for reforming the international trade and aid system. Throughout the discussion, the author is concerned to identify workable ways of furthering basic change.

The frustrations of unequal development, combined with rapid population growth, can easily ignite revolutionary violence. Clearly there are many people, both Western observers and Third World participants, who feel that only through revolutionary violence can social justice be attained. Ozay Mehmet, on the other hand, exemplifies those development economists who are searching for a less destructive road to an improved economy and society.

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SUSAN ROSE-ACKERMAN. *Corruption: A Study in Political Economy*. Pp. xii, 258. New York: Academic Press, 1978. $16.95.

JOHN A. GARDNER and THEODORE R. LYMAN. *Decisions for Sale: Corruption and Reform in Land-Use and Building Regulations*. Pp. xi, 217. New York: Praeger Publishers, 1978.

In 1968 the mayor and other officials of a surburban Illinois community agreed to permit profitable high density development on land zoned for single-family housing, in exchange for payments of $10,000 each from the developer. It was not something new; way back in 1795, according to one account, every member but one of the Georgia legislature was bribed to pass a bill selling state land at a low price to a favored buyer.

There is not much hard information about the extent of corruption in the United States; public concern for the problem ebbs and flows mainly as particular scandals surface. An examination of newspaper indexes for stories on major state or local government corruption between 1970 and 1976 produced a list of 372 cases, of which 83 related to land development or building regulations, 112 involved purchasing goods from private suppliers, 45 had to do with the sale of government jobs, and the balance ranged over a variety of situations including, for example, welfare abuses.

This pair of books represents the analytical, scholarly approach to the problem of corruption, asking why corruption occurs and what steps to curb it are likely to be effective. Both studies were supported by grants from the U.S. Department of Justice through the Law Enforcement Assistance Administration. Beyond that they are quite dissimilar and unfortunately not complementary.

Susan Rose-Ackerman, at the Department of Economics and the Institute for Social and Policy Studies of Yale University, takes the approach of setting up microeconomic models of the behavior of public officials in a variety of situations. For example, she assumes a legislator balances the potential gain from accepting a bribe against the diminished chance of reelection if the corrupt act is discovered. From the model she concludes that a legislator with either no prospects of reelection or no chance of failing to be reelected may sell out rather cheaply. Those with a good chance of being reelected would want a larger bribe, some of which might be used to buy reelection votes. An extension of the argument shows that it can be less expensive for a "special interest" to deal with individual legislators regardless of party than it would be to buy off a specific political party.

Corruption covers a complex list of situations by level of authority, by bureaucratic structure, by the nature of penalty if discovered, by degree of risk, and by extent of voter apathy. As an economist, Rose-Ackerman gives careful thought to the question whether corruption in some circumstances might be a superior way to allocate resources than the normal bureaucratic process. For example, some clients waiting to be served by a particular government office may in fact have much to gain by bucking the line and, thus, be willing to pay for preferential treatment, while others might be indifferent to a little more delay.

Another set of models deals with the relationship between a government purchasing agent and potential suppliers, explaining among other things why collusion among competing suppliers is likely to arise. For many bureaucratic situations she identifies a "reverse Gresham's Law," as corrupt officials (for example, building inspectors threatening to delay permits until bribes are paid) lose out to honest officials. When a citizen, say a land developer, needs several approvals it may affect the likelihood of corruption if these approvals must be in a particular sequence, and also whether a particular decision can be overruled by a higher-up.

The Rose-Ackerman book at least suggests if it does not fully realize the possibility and indeed the crying need for a set of corruption litmus tests for governmental structure and functions. There is some opportunity or invitation for corruption in every government-business interface, and with the kind of catalog which her book points toward, much of the harmful potential can be identified or even excised. Her book is essentially theoretical and abstract; there are numerous factual references (mainly in footnotes), but she does not demonstrate that her theorems have real world significance. Despite an occasional poser, her arguments seem realistic as well as valid.

In *Corruption* the focal point is always the public official making decisions in the context of relationships with voters, bureaucratic co-workers, and citizens or business firms. In *Decisions for Sale* the focus is upon the business situation which can give rise to bribery attempts (or to extortion, which is corruption initiated by a public official), indeed upon only those situations relating to real estate. This is a dimension which is missing in Rose-Ackerman's work. It seems reasonable to conjecture that corruption is a joint product of specific governmental organization and a particular private interest, but neither book nor both taken together round out the subject to that extent.

John Gardiner, Professor of Political Science at the University of Illinois at Chicago Circle, and his co-author Theodore Lyman, Senior Policy Analyst at SRI International, limited their study to corruption involving land development and building regulation at the state and local level of government. They developed a universe of cases from recently

established newspaper indexes, selected a number of representative instances, and for this sample examined trial records and conducted interviews with informed individuals.

If the sample is representative, it is also most uneven. A case involving a carpet merchant's $1,000 bribe to circumvent a Santa Clara California sign ordinance is followed by a summary of how things worked in Mayor Daly's Chicago. One event in Chicago saw land tentatively downzoned so that friends of a key official could acquire it at a low price, then rezoned for a shopping center to the dismay of neighbors who wanted a park there, and then bought by the state at shopping center prices and finally turned into the desired park, at a gain to the official and friends of more than ten million dollars. One chapter describes a community which seems corruption-proof because of the integrity and perspicacity of its long-time manager, as an illustration of how things ought to be done. Civil liberties people might blanch at the financial disclosure, psychological testing, and work strictures imposed on public employees in that town.

Having presented their narrative evidence, which seldom suggests anything more than might have been covered in newspaper accounts, Gardiner and Lyman set forth a list of generalized conditions likely to lead to corruption. Unfortunately, there is little apparent linkage between the evidence and these conclusions. Instead, the authors' suggestions deal primarily with the structure of government rather than with particular corruption inducing aspects of land and building business activities. Their conclusions refer to issues handled much more effectively by Rose-Ackerman's models.

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RANJIT SAU. *Unequal Exchange, Imperialism and Underdevelopment: An Essay on the Political Economy of World Capitalism.* Pp. viii, 202, Calcutta: Oxford University Press, 1978.

Sau aims to account for the persistence of unequal economic exchanges between the rich capitalist and the poorer nations (center-periphery) in the neocolonial era. This is a proper subject for a study in political economy, which the author claims it to be. But the book's "political" feature is almost entirely nominal, not simply treated as a dependent variable. Economic factors arguably shape political forms and decisions, but the book's economic determinism has little patience with drawing political-economic links. Sau points to economic dependency imposed by traditional imperialism. It was, however, imperial control imposed and maintained by administrative and political means, whatever the economic inspiration or consequences. More, therefore, deserves to be said about why such controls, which apparently can be disounted as allegedly exploitative, subjugating practices, continue under neocolonialism.

The crisis of modern capitalism is said to lie in the outstripping of ability to absorb by ability to produce. Monopoly capitalism is driven to invest overseas. Third World economies, no matter what their structural or technological condition, are victimized by metropolitan industries. This victimization, meaning exploitative or unequal exchange, is fostered by an alliance of feudal, local capitalist, and imperialist forces. Continuing underdevelopment results from actual economic accomplishment falling far below the potential contribution of indigenous resources, as surplus is drained away.

Sau has woven an interesting and often provocative thesis. Too often, however, his presentation suffers from stiff categories which are analytically tenuous and empirically dubious. Manifestations of industrialization in the Third World are defined as the dumped, obsolete technology of the developed world, further impoverishing the recipients. Would the progress of the NICS—new industrial countries—sustain that argument? Sau claims the "victory of socialism in one-third of the world," but he casually passes over the immense variety and performance levels within the second world,

apart from forecasting that temporary non-equivalent exchange features there will disappear as capitalism disappears worldwide.

Sau's book is weighted with imperatives and immutabilities. This may be because he writes with powerful conviction. It may also be so because he writes passionately. Hence, "with the colonies gone, imperialism rearranged its tentacles," and it is "imperialist plunder" that unites the Third World. This is heavy stuff, inviting attention but not necessarily persuading.

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BARBARA STALLINGS. *Class Conflict and Economic Development in Chile 1958–1973*. Pp. xviii, 295. Stanford University Press, 1978, $18.50.

Chile is a developing country with relatively high per capita income (US $1050 in 1976), a highly educated, urbanized population, and rich natural resources. Yet in recent decades Chile's macroeconomic goal attainment generally has been much less satisfactory than that of most other middle-income countries. For example, among the 58 middle income countries included in the World Bank (1978), Chile had the sixth lowest growth rate in per capital real GNP and the highest inflation rate for 1960–1976. This unsatisfactory performance occurred despite five recent major efforts to revitalize and stabilize the Chilean economy: Ibañez-Klein-Saks (1956–1958), Allesandri (1959–1961), Frei (1965–1970), Allende (1971–1973), and Pinochét (1973 to date). These efforts have been of considerable interest to analysts of the development process because they were well organized in a country with apparently substantial advantages over others in the developing world, and because they have represented a wide range of political philosophies.

Stallings' contribution is to analyze the middle three of these efforts within a Marxian framework that places emphasis on the relation of class interests (with class determined by the ownership of the means of production), political power, and economic outcomes regarding growth and distribution.

The author's framework leads to many fewer testable propositions than would be desirable. It also causes her to dismiss, perhaps too lightly, events that may not easily fit into it: for example, the possibility of evolutionary reform instead of dialectic class conflict, the probably important role of the owner of human capital in addition to the owners of labor power and of physical capital. Ms. Stallings pays too little attention to the constraints imposed by the complete economic system, the impact of foreign-sector policies, such as the exacerbation of foreign-exchange constraints by discouraging exports through overvaluation with a fixed exchange rate—both by rightist Alessandri and leftist Allende—and the importance of feedbacks and lags. She sometimes seems to mischaracterize basic economic paradigms, attributing Ricardian-Marxian-Kaldorian differential saving propensities to neo-classical economics (p. 225), and almost ignores some striking economic phenomenon such as the almost twentyfold increase in the money supply under the Allende government. The author also ignores a large number of other studies of the Chilean experience.

Despite such shortcomings, however, this study is an important contribution. Stallings adopts a wider perspective than do most Western economists by focusing on the nonneutrality of the state in the economic process. She also uses comparisons of three Chilean economic programs to provide useful perspective about the Allende years. She is generally careful about her analysis of the data and avoids the extreme simplifications of some commentators on the Allende years by placing into perspective the U.S. role (important but hardly determinant in itself) and the lack of critical short-term support from the socialist nations (p. 239).

Although I do not agree with some of the analysis and some of the conclusions —"the state *has no choice* but to take the lead in the accumulation process if investment is to meet the country's needs . . . ," (p. 233)—this study is im-

portant and provocative. That I learned a great deal from it even though I had studied the Chilean experience extensively before I read it is a very high recommendation. I expect that others with serious interest in the Allende experience, Chile, Latin America, and/or economic development will also benefit from a critical reading of this book.

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PREFACE

In the early 1960s, the relationship between church and state was a prime object of study and controversy. The bibliography generated then has hardly been added to since 1970, and the fires of polemic have subsided, largely because the U.S. Supreme Court has decided several important isues, for better or worse, and others have not yet clearly emerged.

It is not that all the problems latent in that relationship have been resolved; far from it. Every day new dilemmas appear, some not adumbrated in the earlier settlements, others posing unexpected revisions in seemingly settled principles. In the past few years, for instance, the U.S. Supreme Court has decided several church-state cases which fall into three classes:

The application of long-accepted principles. In *Paty* v. *McDaniel* the court ruled that Tennessee could not exclude members of the clergy from election to public office, a principle long-accepted in all the other states and in federal law.

The revision of long-accepted principles. In *Jones* v. *Wolf*, the Court seemed to recede from its earlier doctrine expressed since *Watson* v. *Jones* (1872), that in disputes over church property within hierarchical churches, the civil courts may disregard the determinations of ecclesiastical tribunals and award the ownership of church property on the basis of neutral documents, such as title deeds, indicating secular ownership.

The emergence of new principles. In *NLRB* v. *Bishop of Chicago*, the U.S. Supreme Court ruled that the National Labor Relations Board did not have jurisdiction over the labor relations between church authorities and lay teachers in the church's parochial schools. While this apparent exemption of churches from laws of general application has a few parallels (*Sherbert* v. *Verner*, *Walz* v. *Tax Commission* and *Wisconsin* v. *Yorder*), they are fairly recent and suggest the emergence of a new disposition on the part of the Court to treat churches as somehow *sui generis* because of the religion clauses of the First Amendment.

This recent disposition of the Court seems as yet not to be visible to most state and federal governmental agencies which, like the NLRB, appear to entertain no doubts as to their authority to regulate the affairs of churches just as they do other organizations. This doctrine will be tested more frequently in the future as churches resist what they view as the increasing propensity of governmental agencies to interfere in their affairs.

In fact, one could say that the church-state settlement of the 1960s was predicated upon the assumption that churches were not to be aided in any way by government lest they come to dominate the civil sphere. The U.S. Supreme Court, in decision after decision, beginning with *Lemon* v. *Kurtzman*, cut down one mode after another of public aid to parochial schools, conceivably on the basis of concern that the Roman Catholic Church, which operates most church-related parochial schools, not be strengthened by public aid

lest it become too powerful. The Supreme Court, of course, has never said that this was its rationale, but it seems not inconsistent with a prevailing anxiety of that era.

In the 1970s, a new assumption seems to be emerging: that the danger of the moment may not be a domineering church so much as a domineering government; thus new correctives to that tendency are beginning to appear. It is a new thing under the sun, certainly, when the Baptist Joint Committee on Public Affairs, for instance, announces that it will refuse to register as a lobbyist if the proposed Lobby Registration Act is passed because it considers the proposed law to be a governmental infringement upon the free exercise of religion, and the educational and welfare institutions related to the Lutheran Council in the U.S.A. refuse to file annual informational returns with the Internal Revenue Service because they consider recent regulations requiring them to file to be unconstitutional redefinitions of their relationship to the church (which is not required to file).

Several denominations and the National Council of Churches are planning extensive studies of various developments which they believe to be increasing encroachment by governments upon the free exercise of religion. Whether their fears are warranted or not, they suggest a new era is dawning in church-state relations in the United States. This issue of THE ANNALS is designed to try to assess the current interface between government and the institutions of religion at the end of the 1970s and to sketch some of the emerging problems.

Leo Pfeffer, the able advocate for strict separation of church and state, who has argued successfully many of the landmark cases in the Supreme Court, and who is the author of the one-volume update of Anson Phelps Stokes' classic, *Church and State in the United States,* sets forth the current state of the law, which he has done much to shape, and the separationist agenda for the future.

Richard John Neuhaus and Theodore Kerrine pose an alternative view in their article on mediating structures, a revisionist proposal that would work toward the strengthening of churches as one of a range of intermediate people-sized institutions between the individual and big government.

James Curry, editor for international events of the *Journal of Church and State,* published by the James M. Dawson Center at Baylor University, gives a survey of church-state developments around the world, a necessary backdrop to lend perspective to the unique American situation described in the other articles.

Charles Whelan, S.J., one of the foremost Roman Catholic theorists on church and state in the U.S., analyzes the crucial boundary problem facing all schools of thought: how shall the entities protected by the religion clauses of the First Amendment be defined, and by whom? For over two hundred years, the jurisprudence of the United States has managed to avoid drawing up a governmental definition of "religion" or "church," since they or their prototypes were in existence before the nation began and everyone knew what those words meant. Is that no longer the case? With the emergence of new and unconventional organizations claiming to be religious or churches, is a definitive description now needed? If so, should the churches assist in drawing up a definition lest government arrive at an inadequate one?

Philip Wogaman, Dean of Wesley Theological Seminary in Washington,

D.C., has outlined the problems surrounding the activity of churches and synagogues in attempting to affect public policy. Are churches properly considered lobbyists? Should they be engaged in such activities? If they are, should they be regulated by law as other lobbyists are, or at least disclose the nature and extent of their activities? Or is such compelled disclosure, as the Supreme Court said with respect to the Election Disclosure Act, itself an infringement upon the freedom protected by the First Amendment?

The most controverted subject of church-state litigation of the past three decades is education. James E. Wood, Jr., director of the Baptist Joint Committee on Public Affairs, sketches the two main problem areas in education: religious activities in public schools, and public aid for parochial schools.

Thomas Robbins and Dick Anthony have written a helpful analysis of problems posed by the supposedly new phenomenon of cults or new religious movements, which appeal to many young people in ways that older, more conventional religious groups do not. They assess the new occupational field of de-programming—forcible abduction of members of such groups and protracted efforts to "persuade" them to abandon their new-found adherence.

Robert Beebe, legal counsel to the New York State Division of Equalization and Assessment, has had considerable experience with litigation of the claims of various organizations to tax exemption on the ground that they are churches, though of very recent provenance. Is the state obliged to accept such claims? On what basis can it reject them without violating the right to free exercise of religion on the part of new religions?

Eugene R. Scheiman, an attorney practicing in New York who has handled several church-state and freedom-of-the-press issues arising under the First Amendment, analyzes an often unnoticed area of church-state relations: the use of compulsory process to obtain testimony from church workers about information they may have, or be supposed to have, as a result of their association with suspects through their work in the church. Though rooted in the venerable priest-penitent privilege, this issue is a broader one, extending to church workers who may not be ordained, and indeed to church members at all levels. Should they be privileged not to disclose information that would tend to undermine or destroy the relationship of confidence and trust without which churches cannot carry out the ministry of consolation of souls, which may be more important in the long run than the apprehension of particular criminals.

Sanford Jay Rosen and Robin B. Johnson, attorneys practicing in San Francisco in a firm that acts as Special Counsel to the Division of Church and Society of the National Council of Churches, examine the increasing trend toward state and municipal regulation of charitable solicitations, which as applied to churches may represent an interference with the free exercise of religion.

Sharon Worthing, another attorney in private practice in New York, writes an account of the rather startling developments in California where the State has imposed a receiver to safeguard the assets of the Worldwide Church of God. The most significant aspect of this unprecedented action is the theory advanced by the Attorney General of the State that the income of the church from voluntary contributions is a charitable trust which the

State has a duty to protect even against the leaders of the church to which they were given. This innovative doctrine, if accepted by the higher courts, would be of immense moment to all churches and a monumental revision of the present stricture by the U.S. Supreme Court against excessive entanglement by the government in the internal affairs of churches.

Ronald Flowers, head of the Religious Department of Texas Christian University in Fort Worth, Texas, writes on an intriguing area of church-state law: the impact of the First Amendment on various issues of health and health-care. An emerging problem under this heading is the degree to which the public may finance—or refuse to finance—abortions through Medicaid, and whether intervention by churches on either side of this issue would serve to invalidate the legislation secured.

Each of these authors deserves our appreciation for the time and effort devoted to putting down for our edification the fruits of much study, research, and experience. Some have summarized in cogent fashion very complex and elaborate areas of law, while others have explained problems that are only now emerging and are as yet known to but a few.

There are a few important sectors of the church-state field that have not been covered in this survey. The field of tax exemption of churches is broad and technically complex, but not much of general interest has occurred in it since my book, *Why Churches Should Not Pay Taxes*, was published, and so it seemed unnecessary to update here.

The field of church-state relations in relief, refugee resettlement and social welfare is so vast and complicated that it may be doubted whether any one person—or several—even knows the extent of it, let alone the ramifications for church-state theory of its far-flung manifestations. Hundreds of millions of dollars every year are channeled through church-related agencies for everything from housing, daycare centers, meals on wheels, care for vast overseas relief, redevelopment disaster-aid, and refugee resettlement programs. To treat this area adequately would require a tome larger than this whole issue of THE ANNALS, and it has not even been attempted here.

In twenty years, the church-state panorama may have changed sufficiently that new problems and new solutions unanticipated now may dominate the field, transforming it in some unrecognizable ways. But the basic insights which mark one of the world's most significant institutional inventions —the independence of the religious institutions from the institutions of government—will remain. Most of the current problems outlined in this issue are "frontier" problems; they do not, as yet, affect the central conviction of the jurisprudence and culture of the United States: that churches and governments prosper best when they are not dependent upon, or intermingled with, each other.

DEAN M. KELLEY

ANNALS, AAPSS, 446, November 1979

The Current State of the Law in the United States and the Separationist Agenda

By LEO PFEFFER

ABSTRACT: The Religion Clauses of the First Amendment are aimed at securing both religious freedom and the separation of church and state. The former forbids limitation not shown to be justified by a compelling government interest; the latter prohibits laws failing to meet the purpose-effect-entanglement test. On the whole the Supreme Court has been faithful to the mandate imposed by the clauses and interpreted and applied by the judiciary. Although it has been urged that there are or may be instances in which freedom might demand what church-state separation forbids or vice versa, the Court has not yet been faced with any case requiring it to make a choice.

While not fully satisfied with the Court's resolution of conflicts between church and state, particularly in the area of financing religious school operations or refusing to finance abortions for the economically underprivileged, the separationist agenda is basically the defense of present constitutional principles and the assurance of their faithful application by the executive and legislative branches of government.

Leo Pfeffer is an attorney specializing in constitutional law, principally the First Amendment guaranties of religious freedom and church-state separation. He is currently professor of constitutional law at Long Island University and Special Counsel to the American Jewish Congress.

FEW, IF ANY, nations of the world equal the United States' commitment to freedom of religion and the separation of church and state; and few, if indeed there are any, accord greater protection by law to freedom and separation. This does not mean that no American is subject to governmentally sanctioned or, at least, governmentally tolerated discrimination because of religion. Nor does it mean that there is complete separation between religion and state in this country. And it certainly does not mean that all Americans are fully content with the relationship between religion and state as it exists. It means only that this relationship is reasonably satisfactory to those who favor broad religious freedom and narrow governmental involvement in religious affairs.

It must be recognized that the existing situation is in large measure the consequence of judicial decisions by the Supreme Court. Yet it must not be assumed that these decisions are unacceptable to the American people at large. History establishes that Supreme Court decisions which are in harmony with the wishes of the people—such as the Court's 1803 decision in *Marbury* v. *Madison* establishing its power to declare laws unconstitutional—will long endure; whereas decisions unacceptable to the people—such as the ill-fated Dred Scott decision—are short-lived. On the whole, the voice of the Supreme Court is the voice of the people.

THE MEANING OF FREE EXERCISE

It is quite obvious that, although the Constitution declares that Congress (and, today, the states as well) shall make no law prohibiting the free exercise of religion, this mandate cannot be applied in literal terms in all cases. The First Amendment forbids laws abridging freedom of speech, but we know that it cannot be interpreted to immunize from prosecution a person who falsely cries "fire" in a crowded theatre. Similarly, the courts have consistently held that Christian Scientists, or others who believe in faith healing, and Jehovah's Witnesses, whose religious beliefs forbid blood transfusions, may be compelled by law to allow their children to receive medical treatment and blood transfusions when life or health requires it. The Free Exercise Clause, the courts have held, may allow an adult to sacrifice himself to his religion, but it does not allow him to sacrifice his children, as tragically happened so recently in Jonestown, Guyana.

If the Free Exercise Clause does not guarantee absolute freedom of religion, what does it guarantee? In its earlier cases, the Supreme Court borrowed what is generally known as "the clear and present danger test" from the decisions defining freedom of speech and press. Under these decisions, the government could punish speech which presented a clear and present danger to some paramount societal interest, such as publishing, during wartime, the hours of departure and the routes of American vessels.

In more recent decisions the Court has, perhaps, gone even further in assuring religious freedom. When a law or other act of government is challenged as a violation of the Free Exercise Clause, the burden, the Court says, is on the government to establish that it has a compelling interest which justifies abridgement of the citizen's right to the free exercise of religion. On the basis of this test, in the 1963 case of *Sherbert* v. *Verner*, the Court held that a state could not deny unemployment insurance ben-

efits to persons who, observing Saturday as their holy day of rest, would not accept positions that required them to work on their Sabbath. The state, the Court held, had not established a compelling interest which would justify infringement upon the Free Exercise rights of the Sabbath-observers.

The liberality of the Court in applying the Free Exercise guaranty was again manifested in the 1972 case of *Wisconsin* v. *Yoder*. Although, the Court held, religiously motivated parents like the Amish have no constitutional right to deprive their children of a basic secular education, they do have a right to refuse, on religious grounds, to send their children to high schools after they have completed the elementary school grades. Eight years of schooling, according to the Court, are sufficient to satisfy the state's interest in the secular education of children. However, in the 1977 case of *TransWorld Air Lines* v. *Hardison*, the Court appears to have retreated somewhat from the liberalism towards the Free Exercise Clause that is expressed in the Sherbert and Yoder cases. It held that a company can lawfully dismiss or refuse to hire persons who refuse to work on their Sabbath if the employer's business would thereby suffer more than minimal hardship.

RELIGIONS AND CULTS

In recent years there appears to be another of the periodic returns of many Americans, not necessarily to religion in general, but to the more fundamentalist religions. The current revival differs from the earlier ones in that it encompasses not only the well-established faiths of Christianity and Judaism, but new ones, many of which trace their origins to India and the Far East. These have proved attractive to the younger generation, particularly college students and others in upper socioeconomic classes, and their spread and popularity has given rise to a fear amounting almost to panic among parents. This fear was greatly intensified by the mass suicides and infanticides in Jonestown, although ironically they involved not an alien Asiatic sect but the People's Temple, a faith appealing almost exclusively to the economically underprivileged among blacks and having no roots directly traceable to the East.

There can be little question that the Free Exercise Clause does not preclude criminal prosecutions of persons still alive who aided and abetted, at least, the infanticides if not the suicides. Preservation of human life certainly constitutes a paramount societal interest justifying governmental intervention. There is, however, a good deal more question whether such intervention can be reconciled with the Free Exercise Clause where there is no clear threat to human life, safety or health.

Justification for intervention in such cases was initially sought in an interpretation of the word "free" in the First Amendment. A person subject to thought control is not acting freely. Hence, if one's son, even if in the twenties rather than the teens, is programmed into some disfavored sect, his freedom of religion is not violated if his parents arrange that he be kidnapped and deprogrammed. The courts, however, have not manifested much hospitality to this approach.

Governmental hostility to the "far out" has more recently been predicated on an interpretation of the word "religion," rather than "free," in the First Amendment. Disfavored groups are now called cults, and as such are not entitled to the protection of the

Free Exercise Clause, or to an exemption or similar privileges normally afforded to religions.

It is difficult to justify any constitutional distinction between religions and cults. There does not appear to be any court decision, at least at the appellate level, that makes such a distinction in applying the Free Exercise Clause. Assuming that the members of a group are sincere in their beliefs regarding their views of human relations to the Creator, the Free Exercise Clause is as applicable to them as to adherents of the most orthodox and respected religious creeds.

THE MEANING OF SEPARATION

With the exception of abortion, to which we will return, contemporary conflict regarding church-state relations primarily concerns education. There are two facets to this: the role of religion in public education and the governmental financing of religious schools. In all instances the constitutional question is the role that government can play within the limitations of the First Amendment's prohibition of laws respecting an establishment of religion.

It was not until 1947 that the Supreme Court found it necessary to define what the Establishment Clause means. In upholding, in *Everson* v. *Board of Education*, the constitutionality of a law providing for publicly funded transportation of pupils to parochial schools the Court said:

> The "establishment of religion" clause of the First Amendment means at least this. Neither a State nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a State nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation" between church and state.

The Everson no-aid test was quoted and applied in several later decisions, but in the more recent cases, the Court has relied on a somewhat differently worded (though essentially the same) test. In its later decisions, involving aid to parochial schools, as, for example, *Wolman* v. *Walters*, (decided in 1977), it applied what has become known as the purpose-effect-entanglement test. The Court said:

> In order to pass muster, a statute must have a secular legislative purpose, must have a principal or primary effect that neither advances nor inhibits religion, and must not foster an excessive government entanglement with religion.

More specifically a statute violates the Establishment Clause if any one of the following conditions is present:

> Its purpose is to advance or inhibit religion. A statute may have more than one purpose, but it is probable that the Court would hold unconstitutional a statute having both a religious and secular purpose, of equal weight.

> It has a primary effect of advancing or inhibiting religion. In the earlier cases the Court seemed to hold that a statute can have only one primary effect, but the later ones indicate that it can have

more than one. If any of the primary effects is to advance or inhibit religion, the statute is unconstitutional.

The statute results in excessive governmental entanglement with religion. Political divisiveness along religious lines, while not necessarily conclusive in itself, is to be given great weight in determining whether the entanglement is excessive.

THE CURRENT STATE OF THE LAW

One often hears complaints that the constitutional law in respect to the role of religion in education, as defined by the Supreme Court, is confused, conflicting and uncertain. It may be suggested that one seeking certainty in law should not look for it in the arena of constitutional law, particularly in the aspect that concerns the Bill of Rights. Indeed, compared to the state of law construing other prohibitions of the First Amendment such as freedom of the press, or the rights of persons charged with crimes—the Court's interpretation of the Religion Clauses is a model of clarity. It is perhaps no mere coincidence that those most articulate in condemning the Supreme Court's decisions for lack of clarity are generally those who are unhappy with the substance of those decisions.

At the risk of oversimplification—a risk that can be avoided only if this article were expanded to tome length—the current state of the law can be set forth as follows. With respect to religion in the public schools, instruction for the purpose of inculcation is impermissible. Objective teaching about religions, the study of religious literature (including the Bible) as works of literature, of painting and sculpture as works of art, and of music as music is permissible. Nor does the Constitution forbid public school instruction in the role of religion in history or philosophy, to the extent that philosophy is taught at the elementary or secondary school level. Moreover, it is permissible to release pupils for religious instruction during regular public school hours, provided the instruction is not held on school premises and the school personnel remain completely neutral in respect to pupils' enrollment or nonenrollment for the instruction.

School-sponsored prayers, sectarian, nonsectarian or multisectarian, are impermissible. So, too, are religious holiday observances and programs, Christian, Jewish, and Christian-Jewish. It is, however, permissible and probably constitutionally mandatory, to excuse pupils from attending school on their religious days of obligation.

In respect to governmental financing of religious schools, the constitutional situation is not as well-defined and clear. Nevertheless, it can fairly be summarized as follows. At the elementary and secondary levels a fairly sharp distinction is made between the financing of health and welfare services for the benefit of the pupils and the financing of education services, the former being constitutionally permissible and the latter not. Health and welfare services include school breakfasts and lunches, medical, dental, nursing and optometric services. Also permissible are psychological services and bus transportation between home and school, but not transportation on field trips.

Impermissible are the financing of salaries of religious school teachers even if they are teaching secular subjects, and so too are maintenance and repair costs of religious school buildings and grounds. Financing

for the purchase of secular textbooks which are loaned (but not given) to pupils in religious schools, is permissible, but not financing for the loan of equipment to the schools or instructional materials, such as globes, science kits and the like to the teachers or pupils. Impermissible, too, are tuition payments and tax credits or deductions for tuition paid in religious schools.

The inclusion of transportation costs to and from school, upheld by a vote of 5 to 4 in the Everson case of 1947, can perhaps be justified as constituting the provision of welfare (rather than educational) services, in that bus transportation is a reasonable means to safeguard the pupil from traffic injuries. The Court's strict limitation of constitutionality to home-school transportation indicates its unhappiness with the original 1947 decision and its determination not to allow extension of that decision.

Financing the loan of textbooks obviously cannot be justified as a safety measure. The Court's decision can be explained only by a felt need not to overrule its 1968 decision in the Allen case, authorizing such financing. There is little doubt that had the Court been writing on a clean slate it would not have allowed the financing of a service so clearly educational. Evidence for this can be found in the votes of Justice White, the author of the Allen decision: in practically every one of the Court's post-1968 decisions striking down aid to religious schools, Justice White dissented on the ground that they were inconsistent with the Court's holding in the Allen case. In any event, the Court has left little doubt that it is unhappy with the Allen decision and has no intention of extending it beyond its strict limits, that is the loan of secular textbooks to pupils.

On the post-secondary school level, the Court has been more tolerant in allowing governmental financing even of educational services. In *Tilton* v. *Richardson*, decided in 1971, the Court upheld the constitutionality of a provision in the Higher Educational Facilities Act of 1963 which authorized construction grants for college facilities, public and private, except facilities to be used for sectarian instruction or religious worship or which were part of a school or department of divinity. In later cases, such as *Hunt* v. *McNair* (1973) and *Roemer* v. *Board of Public Works* (1976), the majority of the Court in each case upheld subsidies to colleges which were found not to be "pervasively sectarian" or "so permeated by religion that the secular side" to which the aid was extended could "not be separated from the sectarian."

In sum, the present posture of the Supreme Court indicates that it will strike down any law granting aid to finance educational services in parochial elementary and secondary schools beyond the narrow confines of bus transportation and textbook loans, but will require proof of "pervasive sectarianism" in each particular case in which a challenge is made to aid to "the secular side" of a church-related college or university. The difference in treatment is probably based on the assumption that there is not much difference between parochial schools, but that church-related colleges and universities vary substantially among themselves and each must therefore be judged individually to determine whether it is sufficiently secular to qualify for governmental aid under the Establishment Clause.

CONFLICT BETWEEN FREE EXERCISE AND ESTABLISHMENT

What happens where there is a conflict between the Free Exercise

and Establishment Clauses? Which shall take precedence? The argument has often been made, and on occasion presented to the Court, that, unless the state finances parochial schools, parents who cannot afford to pay but are commanded by their religious principles to send their children to these schools are thereby deprived of their rights under the Free Exercise Clause, which must take precedence over the Establishment Clause. The acceptance of this contention would logically lead to rather unexpected consequences. Under well-established constitutional principles, government may not pass judgment on the validity of any religious belief, but must treat all equally. Hence, it would follow that, since all the states, to a greater or lesser extent, provide free hospital and medical services to those who cannot afford to pay, they must, likewise, pay the cost of faith healing or, similarly must provide unfluoridated water to those whose religious conscience forbids fluoridation.

It is no answer that these situations are different in that secular education is required by law and consumption of water by nature, whereas acceptance of medical treatment is not absolutely required by either. No state requires an adult to undertake either a secular education or treatment for his ills; but all states require parents to obtain both for their children. It is for this reason, among others, that the courts have consistently refused to accept the argument that the Free Exercise Clause impels the states to pay for parochial school education, any more than for faithhealing or unfluoridated water.

The conflict between Free Exercise and Establishment may be more apparent than real; a law which passes or fails under one test will do so under the other. Those who wrote the First Amendment did not see any basic conflict between the two clauses. They conceived of separation and freedom as a unitary principle. To them, separation guaranteed freedom and freedom required separation. The experience in communist countries which claim separation and, at the same time, suppress religion, does not contradict this assertion, since true separation requires neutrality in respect to religion, not hostility. In the Everson and other cases, the Court stated that the Establishment Clause (and not only the Free Exercise Clause) forbids laws which force persons to stay away from, as well as go to church, or which forbid expressing any religious disbeliefs, as well as beliefs. In the later cases, the Court said that the Establishment Clause barred laws whose primary effect is to inhibit religion as well as those whose purpose is to advance it. True understanding of the First Amendment would seem to impel the conclusion that the Establishment and Free Exercise Clauses are two sides of the same coin. However, the Supreme Court does not agree and has indicated that there may be cases in which the Free Exercise Clause commands that which the Establishment Clause forbids, or vice versa.

Tax exemption for houses of worship is a good example. In *Walz* v. *Tax Commission*, the Supreme Court, in 1970, held that granting tax exemption to houses of worship did not violate the Establishment Clause. In that case, all the major religious groups—Protestant, Catholic and Jewish—filed friends-of-the-court briefs urging a decision to the effect that, not only was it permissible for the government to exempt houses of worship from real estate taxes, but that to refuse to do so would violate the congregation's free exercise of religion. The rationale of this claim

is that the power to tax is the power to destroy and, since the Free Exercise Clause forbids the government to destroy houses of worship, it likewise forbids it to tax them.

The Supreme Court did not accept that proposition, although it did not reject it either. It is doubtful that the Court will accept it, and it is questionable that it should do so. Revenues from real estate taxation are used to finance police, fire, safety and similar protection for houses of worship and, in some communities, also to provide them with water from the municipal reservoirs. If the churches could not constitutionally be required to pay for these services in the form of real estate taxes, the result would be that Jews would be compelled to pay for the maintenance of Christian churches and atheists to support all houses of worship, a result difficult to justify under a constitution that forbids taxation for religous purposes.

The First Amendment does not indicate on its face which mandate is superior, the one requiring separation of church and state or the one that secures freedom of religion. It does not say "Congress shall make no law respecting an establishment of religion except where necessary to protect the free exercise thereof." It must, however, be recognized that most Americans would be of the opinion that where there is a true conflict between religious freedom and separation of church and state, freedom should be preferred to separation. There is, it should be noted, considerable freedom of religion in England and most other West European countries though there is no true separation of church and state where there are established tax-supported churches.

Surprisingly, however, although the Supreme Court has indicated that there may be instances in which it would be required to choose between No-Establishment or Free Exercise, it has not indicated which it would choose. It may well be that the explanation lies in the fact that in every case presented to it, disposition under the Establishment Clause was not deemed to constitute an infringement of the Free Exercise Clause. In any event, it is a good guess that the Court will in the future do what it has done in the past; that is, not acknowledge the necessity of making a choice in any particular case before it.

THE SEPARATIONIST AGENDA

On the whole the separationist agenda consists of the vigorous defense of the rulings made by the Supreme Court in the Establishment and Free Exercises cases. In respect to the latter there does not appear to be any serious threat of retreat or modification. It is, for example, not likely that the Court will accord a lesser degree of protection to cults than to recognized religions, including those, such as Jehovah's Witnesses, which started out as cults.

The Establishment Clause decisions in respect to religious intrusions into the public school system are probably equally secure. Not so in respect to governmental financing of aid to religious schools. Current efforts by Senators Packwood and Moynihan to enact a tuition tax credit law testify to the reality that efforts to obtain governmental financing of religious schools are not likely to abate. The Court's ambiguous decision in the Wolman case, and perhaps more importantly, the hope of a change in the Court's personnel, with Burger-White-Rehnquist-type accommodationists succeeding Brennan - Marshall - Stevens absolutists, lend encouragement to the separationists.

It should not be presumed that the

separationists are completely satisfied with all the Supreme Court's decisions in the area of church-state relations. They are unhappy about the Court's apparent acceptance of a less strict interpretation of the Establishment Clause when aid to colleges and universities is involved than when the aid is to institutions at the elementary and secondary school levels. They are not happy about the Court's decision in the Walz case, although realistically they recognize that the chances of a determination in the foreseeable future against the constitutionality of tax exemption of church-owned property used for religious purposes or of tax deductions for contributions to churches are quite slim.

A troublesome question that sooner or later will have to be decided by the Court is the constitutionality of requiring religious school authorities to bargain collectively with unions representing the teachers and other personnel. When, in 1979, the issue came to the Supreme Court on an appeal by the National Labor Relations Board from a decision that compulsory collective bargaining would violate the First Amendment rights of the churches, the Court neatly avoided the constitutional issue by ruling that the Labor Relations Act does not require it. Should the unions be successful in efforts to amend the Act so as expressly to require union recognition and bargaining, the Court will find it difficult—though not necessarily impossible—to avoid deciding the constitutional issue.

Even more troublesome is the question of the constitutionality of excluding abortions from statutes, Federal and state, which finance medical and hospital assistance for the economically underprivileged. The Court has refused to accept the claim that use of tax-raised funds to finance abortions violates the Free Exercise rights of taxpayers whose religious conscience forbids abortions. On the other hand, it has also refused to hold that exclusion of abortions from tax financed medical services for the indigent, at least where the life of the woman is not endangered by childbirth, violates either the Free Exercise or the Establishment Clause of the First Amendment. The separationists are unhappy about a legal situation that allows abortions for those fortunate enough to be able to finance them (usually whites) while denying it to those who cannot do so (usually blacks and Hispanic Americans). The separationists' agenda certainly includes rectifying what they deem to be a serious moral wrong to the poor and a violation of the mandate of equality under the law.

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Mediating Structures: A Paradigm for Democratic Pluralism

By THEODORE M. KERRINE and RICHARD JOHN NEUHAUS

ABSTRACT: The advent of the modern welfare state has tended to undermine the "mediating structures" that form linkages between the individual in his private life and the vast institutions of the public order. Such institutions as churches and families are important not only because they are the value-generating and sustaining institutions in democratic society, but also because they are the agencies through which people most frequently interact in public life. The steady erosion of these natural communities by government expansion has resulted in public policies which lack the confidence of the people most directly affected by them. At the same time, there is an increasing desire for government services. Churches have been effectively excluded from considerations of public policy by a view which identifies the public realm solely with the state. Where church participation is acknowledged, the forces of secularization and professionalization continue to assault the religious character of that involvement while the expansionist tendencies of the state are manifested in attempts to bring churches further within the sphere of government control. The mediating structures proposal calls for an imaginative recognition of institutions like churches in public policy in order to bridge the ever-widening division between individual belief and public purpose.

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AMONG ideas proclaimed as new, the more useful, as often as not, turn out to be rediscoveries. Such is the case with the idea of mediating structures.[1] We arrive at our moment in history not so much by invention as by inheritance. If we are wise, we use that inheritance inventively. The idea of mediating structures has its precedents in nineteenth century sociological thought; Durkheim, Tocqueville and others wrote about the small associations bound together by ties of kinship or common interest, in which most people find community. What is new in our project is the attempt to update the mediating structures notion and use it as an organizing principle for rethinking public policy in post-industrial society. The focus of this article is the role of churches (meaning all religious institutions) in the rethinking and restructuring of public policy.

DILEMMAS OF THE MODERN WELFARE STATE

In addition to the many benefits provided by the modern state, it has also created its own special problems of legitimacy and alienation, to use the inescapable social science jargon. As society becomes more centralized, individuals begin to feel alienated from the decisionmaking apparatuses. At the same time, decisions are made by the state without the participation of people affected and therefore tend to seem illegitimate because they violate the democratic ethos. In totalitarian societies, this problem is resolved by coercing individuals to accept the legitimacy of the regime as the embodiment of the will of "the people." We would contend that in American democratic theory the moral authority of the state is rooted today not in an undifferentiated "the people," nor simply in individual rights, but in the multitude of communities which comprise the society. What is lacking today is an effective and believable linkage between the vast institutions (megastructures) of the public sphere and the values by which people live day-by-day. Mediating structures provide such a linkage, and they can do so more effectively than the megastructures.

Mediating structures are those institutions that stand between the individual in his private life and the large institutions of modern society. Examples include families, churches, voluntary associations, and neighborhoods. From the point of view of the individual, these institutions offer the opportunity for close, face-to-face contact with people with whom one shares a sense of belonging; they shape and support personal values, which are also, almost always, communal values. From the perspective of society, mediating structures provide a moral foundation in their ability to generate and sustain values where the megastructures offer mainly impersonal processes. Thus, mediating structures contribute to the well-being of the individual and the moral integrity of the larger society.

In America today we witness increased demand for governmental services and concurrent antagonism toward governmental interference. The quarrel with "big government" is not chiefly with the welfare state itself but with the way in which its

1. This paper is based upon the argument presented in a monograph by Peter L. Berger and Richard J. Neuhaus entitled *To Empower People: The Role of Mediating Structures in Public Policy* (Washington, DC: American Enterprise Institute, 1977). The thesis advanced there is the subject of a three year research project funded chiefly by the National Endowment for the Humanities and sponsored by the American Enterprise Institute.

benefits are realized. The mediating structures argument can be stated as two propositions, the first "minimalist" and the second "maximalist:" since mediating structures are the principal value-generating and sustaining institutions in society, public policy should protect and foster them; and wherever possible, public policy should utilize and assist mediating structures for the achievement of the purposes determined by the people involved.

The first, or minimalist, proposition assumes that the direction of the state should be informed by discussions and pressures in a variety of arenas where the meanings of human existence can be debated and shared. Without the participation of these arenas, public discourse takes on the appearance of abstraction, of unreality, even of positive evil in the sight of those whose views have been bypassed or violated.

The notion of mediating structures is similar to the theory of subsidiarity in Catholic social theory. That theory holds that decisional authority affecting the individual should be located in that collectivity nearest him in knowledge, sympathy, and responsibility. In essence, subsidiarity gives support to the notion of pluralism, which in turn fosters and protects human freedom.

THE ROLE OF CHURCHES

The view that the public sphere is synonymous with the state has been especially effective in excluding religion from considerations of public policy. Two assumptions in modern social thought, deriving from secular Enlightenment traditions, have operated to minimize the role of religion. The first assumption is that religion will inevitably decline in the face of the processes of education and modernization. The second is that, even if religion continues to thrive, it deals purely with the private sphere of life and is therefore irrelevant, if not hostile, to public policy. Both assumptions need to be re-examined.

If the American experience is admitted as evidence, the assumed connection between modernization and secularization is not very believable. The much discussed decline of religion in America is simply not supported by the data. Church attendance, claimed affiliation, financial contributions, and other indicators all suggest that religion continues to be a highly significant, even growing, factor in the lives of most Americans. Religious institutions unquestionably make up the largest voluntary network in this country. Public policy that reflects the assumption that religion is a residual force will continue to be alien to one of the most vital dynamics in the lives of many millions of Americans.

The second assumption regarding the privatization of religion is also suspect. Although specifically religious activities have been largely privatized, the assumption overlooks the myriad ways in which essentially religious values infiltrate and influence public thought. The family, for example, is intimately involved in the institution of religion, and since the family is one of the prime mediating structures, this makes the church urgently relevant to public policy. The relationship of the American black community to the church, for example, has been frequently noted:

> Where could the Negro find a refuge from this hostile white world? They remembered from their Bible that the friends of Job had counselled him to curse God and die. They remembered too that Sampson when blinded had torn down

the Temple and destroyed himself along with his tormentors. Had not one of their leading ministers in his disillusionment and despair cried out against the flag of the nation he had served in the Civil War, 'I don't want to die under the dirty rag.' But the Negro masses did not curse God and die. They could not pull down the Temple upon the white man and themselves. They retained their faith in God and found a refuge in their churches.[2]

Today that tradition continues even in the most socially and economically devastated communities. A 1978 study of black welfare families in a New Jersey community found that barely 10 percent were involved in neighborhood or other political organizations; the church was, far and away, the institution of most frequent affiliational choice.[3] The many white ethnic communities in America are in large part religiously defined, as are significant parts of American Jewry. Except for the family, perhaps no institution has demonstrated and continues to demonstrate perduring power comparable to that of religion. The influence of religion is residual only to the extent that the bias of secularizing culture and politics is determined to act as though it is residual. This bias in public policy thinking must be more clearly recognized as nothing less than antidemocratic.

SOME NOTIONS OF CHURCH-STATE RELATIONS

The mediating structures paradigm challenges prevailing notions about the separation of church and state. Current legal barriers to the participation of religious institutions in public debate, such as the anti-lobbying regulations of the tax laws, can only lead to further detachment of the formal polity from people in their communities. There will be and must be tension between church and state; the aim of the mediating structures approach is to demonstrate the constructive potential of this tension for reorienting the goals of public policy.

In areas of domestic policy the historical development of programs has been inseparable from the church. Religious agencies are still the main providers of social welfare services in some parts of the country. However, for a number of reasons, the distinctly religious character of these service agencies is being fast eroded. One reason is the displacement of church programs by government programs. The competition offered by the state with its seemingly unlimited resources is more often than not the death knell for many nongovernment agencies. Churches are not entirely blameless in this loss of mission and influence. In various ways, churches themselves have cooperated with the most determined secularists and "strict separationists" in expunging explicit value and belief systems from public discourse. In particular, the dynamics of professionalization within religious institutions and the failure of churches either to support their agencies or to insist that public policy respect their distinctiveness have resulted in an intensified weakening of the voluntary sector in the public realm.

Churches have not only joined but even anticipated the trend toward increasing professionalization of human services by engaging in licensing, certification, and other restrictive practices which needlessly limit the role of people and bring churches further within the orbit of

2. E. Franklin Frazier, *The Negro Church in America* (New York, Schocken Books, 1963), p. 45.

3. Samuel Z. Klausner, *Six Years in the Lives of the Impoverished: An Examination of the WIN Thesis* (Philadelphia, Center for Research on the Acts of Man, 1978), pp. ii–v.

government control. Moreover, especially through funding mechanisms, religious institutions are being turned increasingly into quasi-governmental agencies. More and more college and university administrators are discovering that along with the "carrot" of federal money has come the "stick" of federal regulations. A few church-related colleges have refused substantial federal funds in order to thwart what they perceive as a threat to their independence. Unfortunately they are very few. Most higher educational institutions submit to a maze of federal regulations and guidelines for fear of losing much-needed dollars.

More recently, the Internal Revenue Service has attempted to extend its "turf" by requiring church-affiliated educational and social service institutions to submit financial statements in the same way that charitable institutions do. The general reaction on the part of churches has been one of surprising timidity. An attitude of "the state giveth and the state taketh away" has resulted in their all-too-eager acceptance of state controls for fear of losing their exempt status. Elsewhere, state educational authorities have acted to bring religious schools within their jurisdiction. To their credit, some schools, notably some "fundamentalist" schools, have been staunch in opposing such government intrusion. Several lower court decisions in their behalf have been encouraging, but the battle is far from over.

One answer to those who would seek to extend the arm of government into church matters is the doctrine of "extraterritoriality." That doctrine holds that churches as such should not be subject to general laws applying to others because of the danger of "excessive entanglement" and violation of the First Amendment prohibition against establishment and in favor of free exercise. However, the fear has been expressed that such a policy would be double-edged, isolating religious institutions from the structures of public discourse, while at the same time it insulates them from interference.

Others find direction in the approach espoused by Philip Kurland, that if a policy furthers a legitimate secular purpose, it is a matter of indifference if that policy involves religious institutions. Following this idea, religious initiatives in education and social welfare would be eligible for public assistance since such programs presumably benefit the commonweal. While we are sympathetic to the Kurland approach, from a mediating structures viewpoint it does not sufficiently recognize the singularity of religion and therefore could jeopardize the protections essential to "free exercise."

In general, we are more relaxed about "no establishment" than is the present approach of the courts, and more adamant about "free exercise." We would wish the courts to take more seriously the institutional integrity of religion, rather than its current tendency of privatizing religion by focusing on individual beliefs and motivations. Our concern about church-state relations would be eased were public policy redirected in a way that is more respectful of all mediating structures, including the churches.

Advocates of strict separationism often voice the fear that to invite church participation in the public realm is to invite domination by the churches. Yet the danger today is not that the churches or any one church will take over the state. The more real danger is that the state will take over the functions of the church, except for the most narrowly construed definition of religion limited to worship and religious instruction.

The latter has been the pattern of modern totalitarian states. Pluralism, including religious pluralism, is one of the few strong obstacles to that pattern's success. Within the family, and between the family and the larger society, the church is the primary agent for bearing and transmitting the operative values of our society. This is true not only in the sense that most Americans identify their most important values as being religious in character, but also in the sense that the values that inform our public discussion are inseparably related to specific religious traditions. In the absence of churches and other mediating structures that articulate these values, the result is not that the society is left without operative values; the result is that the state has an unchallenged monopoly on the generation and maintenance of values.

There is a further reason why churches should be "players" in the public arena. The self-aggrandizing tendencies of the modern state stand in opposition to the liberal view of democratic society. While the former perceives church participation as a nuisance, if not a positive threat to its autonomy, the liberal democracy should welcome religious involvement as a way of obtaining the broad base of support necessary to ensure its success. The notion of the self-limiting state guided along a consensus path by the continuous interaction of pluralist forces is, after all, our historic legacy in spite of the centralist tendency that has frequently opposed it. The state can be recalled to its liberal vision by recognizing the unique contributions which churches make to the advancement of the general welfare. At stake is nothing less than the future of the American experiment as an exercise in democratic pluralism.

As the largest voluntary network in America, churches need not be apologetic regarding their participation in public affairs. Churches can and do play an active role in public policy in a number of ways. They serve to inform and reinforce the values of their members and, indirectly, even of non-members. They function as advocacy groups on issues of social justice. In the 1960s, churches were in the lead in advocating civil rights and an end to the Vietnam War. They serve as providers of services in ways that reflect and give meaning to their own world views.

Furthermore, it can probably be said more frequently of churches than of other voluntary groups that their activism stems from moral belief and not merely self-interest. A neighborhood association may organize to obtain better housing or cleaner streets, but its concerns rarely transcend such narrow and immediate issues. From the state's point of view, a thoughtful long-range view that takes into account the moral ramifications of its policies is more likely to find support among the people, particularly when those policies have earned the approval of their own religious institutions, than hastily conceived programs lacking such support. Of course, churches must avoid becoming mere rubber stamps of national policy. Their independence and integrity are to be jealously guarded. This is why, more often than not, the churches' most important witness on public policy will be to say "no" to particular injustices rather than "yes" to specific proposed remedies.

PROBLEMS WITH STATE ACTION

A striking example of the state's attempt to undermine the mediating structures of religion—the minimalist proposition—is that of present litigation aimed at prohibiting adoption and foster-care agencies from employing religious criteria. In a pending

New York case, *Wilder* v. *Sugarman*,[4] it is proposed that agencies designed to serve Jewish, Protestant or Catholic children be ineligible for public funds. The consequences of this would be several. First, the parent putting a child up for adoption or surrendering a child to foster care is deprived of the most elementary say in how that child is to be reared. This is among the most basic of human rights and should not be denied except under the most pressing necessity, especially when one considers that the surrender of children to such agencies is not always entirely voluntary. Another consequence is that the motivation of paid volunteer workers in such agencies is severely undercut. In many, if not most, instances that motivation is to live out and explicitly transmit religious conviction. Yet a further consequence, perhaps the most important, is that the child is deprived of religious training. This may well be construed as the denial of the free exercise of religion. The state has no right to decide that this is not a serious deprivation. What is necessary to rearing the child should be left to those who bear the children and those who care for them.

The mediating structures paradigm opposes the present bias in public policy toward what might be called the symbolic nakedness of public space. A Christmas tree or Hanukkah lights on the town common is a good case in point. No individual has a right to be unaffected by the social milieu of which he or she is part. There must be limits on the ability of individuals to call in the police to prevent behavior that is communally approved—for example, the Christmas tree on the town common. Nobody has a legal right not to encounter religious symbols in public places and thus to impose one's aversion to such symbols upon the community that cherishes them. As long as public space is open to the full range of symbols cherished in that community, there is no question of one religion being established over another.

Very big issues are sometimes engaged in small problems. The meals-on-wheels program might seem to be a small, even trivial, example, but it is instructive for understanding the larger problem. This program was originally established 25 years ago as a voluntary effort to provide meals for homebound senior citizens. Since then, a multitude of similar programs have been started in response to the increasing demand. These private efforts have traditionally been small, mostly voluntary operations run by churches and charitable institutions. Moreover, except for a modest amount of federal assistance, they were largely self-supporting. In the case of church-sponsored agencies, the role of the local church was central. It provided the agencies with volunteer workers who regarded feeding the hungry as part of their religious duty; it contributed a share of its collections to defray the cost of operating such agencies; and the same spiritual motivation which recruited volunteers for these programs also made for a more personal, caring relationship between provider and recipient.

In 1972, Congress decided to subsidize hundreds of nutrition centers across the country for the same purpose of feeding the elderly. Then, in 1978, it decided to amend the original act to permit home-delivered meals. At first blush, this would appear to be a motherhood issue and so it probably seemed to many in Congress. Obviously, the intentions of

4. 385 F. Supp. 1013 (S.D.N.Y. 1974).

both programs were beyond reproach. No one is against feeding the elderly. It is not the intent but rather the *modus operandi* of the programs which we find disturbing in light of the mediating structures notion.[5]

With respect to the maximalist proposition, the following obstacles are presented by the expanded federal program:

The numerous and complex federal and state regulations with which government-funded sponsors must comply.

The regulatory bias against small programs feeding less than 100 meals daily such as most private sponsors do.

Regulations requiring the provision of auxiliary social services to meal recipients.

Regulations prescribing the type and frequency of foods.

On the "minimalist" side, the consequences were more speculative, but no less threatening:

It is surmised that federally subsidized programs would attract some percentage of recipients from the private programs, leaving those programs in an even more precarious financial condition than at present. A number of private programs might be forced out of business.

The attraction of pay for activity that had previously been voluntary may be too much of a temptation for many volunteers in private programs. The resulting drain on personnel could be ruinous for these operations.

Regulations limiting the number of federal meal programs in an area and providing that all nutrition centers in an area operate under the auspices of the one recognized federal nutrition project would by design seek to phase out alternative programs in the interest of uniformity and centralized management.

5. For an excellent analysis of this program, see Michael Balzano, *Federalizing Meals-On-Wheels: Private Sector Loss or Gain?* (Washington, DC: American Enterprise Institute, 1979).

Some of the consequences of such governmental displacement are immediately apparent. The loss of voluntary or third sector participation in a vital area of public need is one. The certain expansion of government bureaucracy, with its attendant costs, to service this new field of federal intervention is another. One can only speculate as to the quality of services to be delivered relative to what existed previously. In this regard, those regulations pertaining to the size of the program, auxiliary services, staff training, income level, and race seem not only irrelevant but also counterproductive. Regulations prescribing the type and frequency with which foods can be served may theoretically increase variety at the cost of viability. That is, most small kitchens will probably not be capable of conforming to federal requirements and will consequently be ineligible for public funds. The strain of government competition and control will ultimately make it impossible for many of those agencies to continue.

With respect to this program and a host of others a number of ways have been suggested in which such policies could be made less burdensome, including maximum flexibility in setting standards and, in some cases, exemption or repeal. While many of these suggestions have merit, they do not address the major problem. What is urgently needed is a fresh approach by government—one that recognizes not only the limitations but also the positive dangers of preemptive state intervention. An approach that respects the diversity and enhances the ability of people functioning within their own self-determined communities of interest offers the best solution. Instead of its present "conquer or destroy" strategy, the state should encourage mediating structures as representing

the best marriage of communal initiative and public purpose.

The meals-on-wheels example is not encouraging. Add up the policies in all the domestic areas which have seen government intervention in recent years and the outlook is dim indeed. The logical conclusion of our present course is that the state eventually becomes the sole provider of all social services. Of even greater concern is the possibility that, with the exclusion of value-generating institutions such as churches, the state will become the repository of moral authority.

CONCLUSION

We are rapidly approaching a critical point in our history where major decisions will have to be made regarding the future direction of church-state relations. The consequences of those decisions will determine whether the actions of the state can continue to be divorced from the values of its citizens and, just as important, whether churches will gravitate more deeply into the sphere of government control. In this test, churches must be prepared to shoulder the primary responsibility; the expansive ambitions of the state show no sign of abating.

The prognosis that has emerged from the mediating structures project is sobering but not without hope. Churches and other participants in the third sector are beginning to assert themselves. The body politic, so to speak, evidences a new and robust skepticism about the competence (meaning both authority and ability) of the state to order the well-being of the society. Students of jurisprudence are increasingly aware of the conceptual bankruptcy of church-state decisions that have undercut the role of religion in shaping and implementing public purposes. There is a revived popular support for the pluralism of American society, and thus for the self-limiting nature of state power. These are among the reasons for hope. But, as promising as they are, the history of the modern state cautions us against optimism. With respect to churches and other mediating structures, it is far from clear that American public policy is ready to move from undercutting them to tolerating them to protecting them to empowering them. The mediating structures proposal points a way, we believe, toward revitalized democratic pluralism. We make no predictions about whether it will be a way taken or declined.

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Church-State Developments Around the World

By JAMES A. CURRY

ABSTRACT: This study covers recent church-state developments within three broad patterns of interaction. The first pattern involves religious attempts to either eliminate or dominate secular authority. The case of Iran's Islamic republic is examined, as well as the possibility of an "Islamic resurgence" among other Muslim nations. The second pattern represents church-state disagreement over specific public policies. Examples in this section include recent educational, divorce, and abortion reforms in the traditionally conservative states of Italy and Spain, religious opposition to the status quo politics of certain Latin American regimes, and disagreements over racial policy in white-dominated southern Africa. In the final pattern, the state seeks to eliminate or seriously restrict religious activity. Primary emphasis in this section is placed upon the policies of the Communist regimes of the Soviet Union, Eastern Europe, and Southeast Asia. The persecution of specific religious groups in non-Communist states is also examined. The various cases examined in this study suggest that church-state disputes are quite common within nearly all world regions and among all religious groups. Moreover, controversies are likely to continue as long as secular and religious leaders seek different goals.

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ANY STUDY of church-state developments around the world must first settle upon an acceptable framework for analysis. The variety of the world's political, social, and cultural systems—coupled with widely varying religious practices—makes the problem a difficult one. Despite the enormous number of variables involved, there are several points which can be agreed upon at the outset. First, church-state developments are far from tranquil in parts of the world. Secondly, church-state disagreement and even confrontation is not confined to the world's backward areas but can be found among the most modernized of states. Thirdly, the church-state relationship recently has received a great deal of the world's attention. Events such as the revolution in Iran and the selection of a non-Italian pope, especially one from a Communist country, perhaps help to explain the recent publicity surrounding church-state affairs.

No attempt will be made in the present study to undertake a country-by-country analysis of the church-state interface. Instead, emphasis will be given to selected developments which seem to be illustrative of several broad patterns of church-state interaction. The three general patterns discussed below are admittedly arbitrary, but they serve as a useful framework for analyzing church-state developments around the world.

In the first pattern, religious groups challenge the very existence of secular authority and, in extreme cases, claim absolute control over the affairs of state. The transformation of Iran into an Islamic republic would seem to fit this pattern closely, although the present arrangement in Iran allows for a kind of limited secular authority. While it will be argued that an Iranian-type situation is unlikely in other Islamic states, the possibility of an Islamic resurgence will be examined.

A second and far more common pattern involves church-state disagreement over public policy issues, although each side normally recognizes the other's existence. These conflicts may escalate into violence, but some sort of compromise is normally reached. Recent examples to be discussed in this study include divorce and abortion policy in Italy and Spain, opposition by religious leaders to the status quo politics of certain Latin American regimes, and church-state disputes over racial policy in white-dominated southern Africa.

In the third pattern, secular leaders seek the outright destruction or at least severe limitation of religious activity. State religious persecution is certainly nothing new, but the problem has been especially acute in the world's Communist states. As will be shown, there has not been a common Communist approach to religious groups, although nearly all Communist leaders have sought in varying ways to remove religion as a challenge to their authority. Recent developments in the Soviet Union, Eastern Europe, and Southeast Asia will be examined.

RELIGIOUS OPPOSITION TO SECULAR RULE

A religion shared by a majority of a state's inhabitants may often serve as a strong integrating force. As public policy considerations increasingly pit secular authorities against religious leaders, however, the shared religion may produce strong anti-governmental sentiment among its followers. Normally, of course, the opposition does not reach the ex-

tremity of revolution as in the case of Iran. However, the formation of an Islamic republic in Iran and discussion of a resurgence in other Islamic states illustrates a severe church-state confrontation.

Iran: Church-State warfare

The month of January 1979 brought about the departure from Iran of Shah Reza Pahlavi and the subsequent return from exile of Ayatollah Ruhollah Khomeini. Thus, Iran embarked upon a massive church-state realignment that is not yet completed. After spending over fifteen years in exile, Khomeini moved quickly to purge the remnants of the Shah's rule and establish an Islamic republic. The first objective was accomplished by means of revolutionary tribunals and executions. The Islamic Republic, on the other hand, was formally proclaimed on 1 April 1979 following a national referendum. According to Khomeini, the day would be known as "the first day of a Government of God."[1]

Events leading up to the Iranian revolution suggest that there was no shortage of opposition to the rule of the Shah, and not all of it was religiously based. Much opposition came from the mullahs (religious leaders) of the dominant Shi'a sect, but the Kurds in the northwest and leftist political groups also helped bring down the regime. Still, the presence of Khomeini and the unifying force of Shi'a Islam provided the major and most effective anti-Shah organization. Reportedly, the mullahs objected to what they viewed as an excessive commitment to Western-style modernization and the accompanying de-emphasis of Islamic practices. Western clothing, movies, night clubs, and overall materialism were apparently incompatible with religious practice. During his final months, the Shah authorized the closing of numerous theaters and clubs that the mullahs found especially objectionable, but it is doubtful that any reforms implemented at that late period would have been sufficient to save the Shah's regime.

The mullahs' opposition to the Shah was not newly formed. Early antagonism to the Shah is attributed by many observers to the 1963 "White Revolution," through which he sought to make Iran a modern, Westernized state. Land reform (resulting in the redistribution of royal lands and substantial church holdings), measures for the emancipation of women, and the spread of literacy generated opposition to the Shah which ultimately led to increasingly authoritarian rule.[2] More recently, the Shah antagonized religious leaders in other ways. In 1976, the Shi'a Islam calendar, based on the solar year since the "hijra," was replaced by the imperial calendar dating from the founding of the Iranian empire by Cyrus the Great. In 1977–78, the $80 million subsidy given to mosques and religious foundations was reduced to a reported $30 million.[3] Events in Iran, therefore, show an ongoing struggle between contrasting approaches—one of Western-style modernization emphasizing the secular; the other, orthodox Shi'a Islam emphasizing the law of the Koran and subordination of secular to religious authority. At present, the republic's operation is difficult to assess. Khomeini issues orders and proclamations from his headquarters in the city of Qom, while Prime

1. *Facts on File* 39 (6 April 1979):247.

2. George Lenczowski, "The Arc of Crisis: Its Central Sector," *Foreign Affairs* 57 (Spring 1979):802–3.

3. Ibid., p. 806.

Minister Mehdi Bazargan does likewise from his government offices in Teheran. It is no secret that tension has been growing between the two authorities, raising serious questions about the actual operation of Khomeini's theocracy.

From all appearances, maintaining the Islamic Republic's stability may not be an easy task. One of the first tests of Khomeini's authority came in April 1979 over a cultural issue: the proper style of dress for Iranian women. Following Khomeini's call for all women to wear the traditional Islamic veil, thousands of Western-attired women went to the streets in a massive show of strength.[4] After several perplexing days, the Ayatollah modified his earlier proclamation by simply urging women to dress in the traditional way. This affair suggests that some westernizing influences will not be removed easily by the new regime. On the other hand, Khomeini has been successful thus far in retaining at least partial control over the workers, although leftist political groups appear to be making gains among certain segments. Kurds have stepped up their demands for autonomy following their help in opposing the Shah. Reported fighting continues to occur in the remote hills of northwestern and northeastern Iran. Finally, there are strong doubts about Khomeini's endurance, particularly given his age. For these and other reasons, it is certainly premature to write an end to church-state confrontation in Iran.

An Islamic resurgence?

Largely as a result of recent developments in Iran, worldwide attention has been focused on what is often termed the "resurgence of Islam." On the one hand, it is clear that Muslim leaders, particularly in the Middle East, have become somewhat more politically active in recent months. Perhaps the sweeping success of Khomeini is partially responsible. On the other hand, the notion that the Iranian experience will be repeated in other countries of the Middle East seems far too simplistic for several reasons. First, the Shi'a sect has long been recognized as the more anti-establishment variant of Islam. According to R. K. Ramazani, "The anti-establishmentarian thrust of Shi'i Islam is also marked by a perpetual drive for social justice and equality hallowed by an ethos of martyrdom that is unparalleled in the larger world of Sunni Islam."[5] Secondly, Shi'ism commands a majority of followers in only two countries—Iran and Iraq. As for Iraq, there is very little present indication of anything approaching an Iranian-style movement in the leftist-dominated country, although a potential for unrest does exist.[6] Thirdly, Iran, because of its immense wealth and rapid development, cannot be matched exactly by any other Muslim country. The size of the middle class in Iran, still modest by Western standards, is far greater than that of most of Iran's neighbors.[7] Finally, there are relatively few religious leaders with the widespread

4. *New York Times*, 12 March 1979, p. 1.

5. R. K. Ramazani, "Security in the Persian Gulf," *Foreign Affairs* 57 (Spring 1979): 829–30.

6. For a discussion of Shi'a Islam in the Arab world, see John K. Cooley, "Iran, the Palestinians and the Gulf," *Foreign Affairs* 57 (Summer 1979):1019–21.

7. James A. Bill, "Iran and the Crisis of '78," *Foreign Affairs* 57 (Winter 1978/1979): 333, calculates the middle class in Iran to constitute over twenty-five percent of the population.

popular following of an Ayatollah Khomeini.

Despite the great differences between Iran and other Islamic states, there is evidence of growing Muslim concern with secular policy in several countries. The Pakistani coup by now President Zia-ul Huq was undertaken allegedly to reform the corruption and decadence of former President Ali Bhutto (since executed by the Zia regime). Islamic law has been reinstituted for most crimes and Zia has gone out of his way to court the Muslim leaders. In late 1978, the government banned all political parties whose ideology was "un-Islamic."[8] It is quite likely, however, that military (largely Western-trained) and not religious leaders will dominate public policy in Pakistan.

Islamic leaders in neighboring Afghanistan are currently in opposition to the pro-Soviet regime of President Noor Mohammad Taraki, but it is unclear whether sufficient unity exists to give the Muslim dissidents much of a chance. Terming the Taraki regime as atheistic because of its affiliation with the Soviet Union, religious leaders have attempted to operate in guerrilla fashion from neighboring Pakistan. The Afghan government has accused Iran of also backing the religious opposition, but Iran has denied such charges. By mid-1979, intelligence sources claimed that fighting had spread to 23 of Afghanistan's 29 provinces.[9] Farther east in Bangladesh, observers kept close watch on April 1979 elections to see if the orthodox Muslim parties would benefit from the much publicized resurgence. The parties won only 19 of 300 seats, suggesting to observers that the resurgence may not have yet reached as far as Bangladesh.[10]

Interestingly, although Islam is prone to sectarian divisions, relatively little intersect confrontation has materialized. A possible exception, Turkey, is probably among the most secularized of Islamic nations. Turkish Islam is administered by the state and does not permit mullahs or a religious hierarchy. Of Turkey's Muslims, nearly 80 percent are Sunni and approximately 20 percent are Alevi (the Turkish variant of Shi'a). The Sunni are clearly dominant, tending to identify strongly with the more conservative forces in the country. A large portion of the Alevi sect reportedly favor a leftist political stance. By official counts, religious strife claimed more than 700 lives in 1978.[11] In early 1979, intense fighting broke out between rival sects, forcing the government to declare martial law in a number of major cities. The clashes, although sectarian, would appear to owe as much to political as to religious factors.

For more than seven years, Moro insurgents have continued to wage war with the Philippine government over the issue of autonomy. The number of refugees in this struggle may have reached over 110,000, according to United Nations sources.[12] The Philippine Moros have attracted some Islamic assistance, primarily from Libya, but their movement has not yet been given high priority by the world's Islamic community. Perhaps one test of Islam's resurgence will be the degree to which other Muslim countries seek to aid the separatist Moro movement in the Philippines.

8. *Facts on File* 38 (27 October 1978):818.
9. *Facts on File* 39 (18 May 1979):368.
10. *Facts on File* 39 (9 March 1979):172.
11. *New York Times*, 3 January 1979, p. 1.
12. *Facts on File* 39 (16 March 1979):193.

In sum, a resurgence of Islam may or may not be occurring among the world's Muslim nations, but it is clear that the religion's potential for political opposition is increasing. That there will be more Iran-type situations in the near future is doubtful, but an uneasy relationship between secular modernization and orthodox Islam will continue to exist in several countries.

CHURCH-STATE DISPUTES: PUBLIC POLICY, SOCIAL CHANGE, AND HUMAN RIGHTS

In most countries of the world, religious groups do not seek absolute control of the regime but rather hope to influence government policy in specific areas. This section will focus on three broad church-state disputes from widely varying world regions. The first case to be examined concerns the recent challenges to Roman Catholic policies within the countries of Italy and Spain. For centuries, the control of the Roman Catholic Church over many social and cultural areas of European life was nearly absolute. As anticlerical feeling spread and secular nationalism increased, however, the state began to assume control of public policy. Until recently, two major holdouts were Italy, the site of the Vatican, and the conservative Spain of Francisco Franco. Today, as will be discussed below, secular has begun to replace religious control in these two countries.

The next two cases suggest that opposition to reform is not always limited to religious groups. A very different situation exists in several areas of the world where the church has assumed the role of progressive reformer. In some situations, religious forces have found themselves in direct opposition to secular policies of the status quo. As might be expected, most of this activity has occurred in developing societies with sizable poor and lower class populations. In the cases to be discussed—the "theology of liberation" in Latin America and antiracism stands in southern Africa—religious leaders have sought to use the church as a promoter and defender of political and social change.

Italy and Spain: the church as opposition

Italy's obviously special relationship to the Vatican often has impeded the separation of secular and religious aspects of public policy in that country. Mussolini's 1929 Concordat with the Church recognized the Vatican as a sovereign state and gave the Church extensive control over education and divorce. This Concordat was incorporated into Italy's postwar Constitution.[13] Only as leftist parties (Communists and Socialists primarily) began gaining strength after World War II did pressure increase to remove the Church's influence. In the decade of the 1970s, Italy has taken two very controversial steps in its relationship with the Vatican. In 1970 the Italian Parliament passed a law which permits civil divorce, although a five-year waiting period is required.[14] The law was passed over the protests of the Christian Democrats and Roman Catholic leaders. In 1974, an attempt to repeal the law in a national referendum resulted in disaster for the antidivorce forces.

Pushed by the leftist parties, a late 1978 Italian law legalized free

13. Michael Roskin, *Other Governments of Europe: Sweden, Spain, Italy, Yugoslavia, and East Germany* (Englewood Cliffs, NJ: Prentice-Hall, 1977), p. 83.
14. Ibid., p. 91.

abortion-on-demand for women over eighteen years of age during the first three months of pregnancy. After that period, a committee is required to determine the wisdom of an abortion. The new law is reportedly one of the most liberal abortion statutes in Europe. The Roman Catholic response under Popes Paul VI and John Paul II has been extremely harsh. The Vicar of Rome threatened excommunication for any physician or hospital employee performing an abortion under the new law. Because nuns provide many of the nursing services in Italy, there has been a problem of sufficient help in performing the operations. As a concession to religious opposition, the statute allows doctors to register as "conscientious objectors" and avoid the requirements of the law. It is estimated that as many as 50 percent of the physicians in some areas (especially the South) have registered.[15]

While there has been some discussion about taking the issue back to the people in a referendum, such a possibility is quite remote. First, antiabortion forces surely remember the unsuccessful antidivorce referendum of five years ago. Secondly, had the abortion bill not passed in the Parliament, it was reported that the bill's supporters already had sufficient signatures for a referendum of their own. Recent reports suggest a growing strain between pro-abortion forces and the Vatican. Pope Paul II has condemned abortion and spoken out in favor of physicians who refuse to perform the operations. In late 1978, the Pope denounced doctors who perform abortions as "instruments of death."[16]

15. *New York Times*, 7 June 1978, p. 9.

16. *New York Times*, 29 December 1978, p. 7.

In Spain, Francisco Franco's 1953 agreement with the Vatican had for years given the Roman Catholic Church power in areas of education and divorce. By the early 1970s, however, it was clear that many of the younger Catholic priests were strongly opposed to the ultra-conservative Franco regime. In 1974, the government threatened to end its Concordat with the Vatican.

Significant church-state realignment has occurred in Spain since the 1975 death of Franco and the ascension of King Juan Carlos. In late 1978, the Spanish people approved a new Constitution which, among other things, contains a declaration of religious liberty and ends the status of Roman Catholicism as the official religion.[17] This change terminated a relationship between Spain and the Vatican under which the Catholic religion, as the religion of the Spanish state, enjoyed official support. Other recent legislative enactments by the Spanish Cortes include legalization of the sale of birth control pills as well as abolition of jail sentences for adulterers. Thus, the new Constitution and legislation in Spain suggest that the traditional hold by the Catholic Church over much public policy may be slipping.

Latin America and the Theology of Liberation

The overall conservative nature of most Latin American regimes is well known. Often ruled by military juntas, these states have resisted attempts by lower social class groups to implement policies such as land reform, wage increases, public housing improvements, and so forth. As observers have noted, the situation

17. *Facts on File* 38 (15 September 1978): 705–6.

is most apparent in Latin America because of the high levels of lower class politicization in the region.[18] Traditionally, the Roman Catholic Church stood as a conservative ally of the state in Latin America. Within the past several decades, however, a sizable segment of the Roman Catholic clergy has begun to espouse progressive, some would say radical, change in Latin American social, political, and economic structures. Some of these priests and nuns admit to an attachment for Marxist ideas, while others have worked from a more purely humanitarian perspective. Not surprisingly, conservative government leaders have viewed such radicalizing efforts with great displeasure.

Pope Paul VI's 1967 papal encyclical, "Populorum Progresio" (on the development of peoples) addressed the problems of the world's poor, urging governments to make human progress a primary undertaking. In his encyclical, the pope condemned aspects of both atheistic materialism and laissez-faire capitalism for their lack of concern with the human element. At the Second Latin American Bishops Conference (CELAM II) in 1968, the more radical wing of the church hierarchy gained control and approved a series of progressive reforms, resulting, by some accounts, in a theology of liberation. From this time, tensions between religious and secular leaders in countries such as Brazil and Chile have increased dramatically. In Nicaragua, the Roman Catholic hierarchy called for the resignation of President Anastasio Somoza.[19]

18. Eric Nordlinger, *Soldiers in Politics: Military Coups and Governments* (Englewood Cliffs, NJ: Prentice-Hall, 1977), pp. 79–85.

19. *New York Times*, 5 August 1978, p. 22.

Because of a smouldering rift in the church hierarchy, the early 1979 convening of the Third Latin American Bishops Conference (CELAM III) was viewed as an especially important event. This became even more apparent with the announcement that Pope John Paul II would attend the meeting in Puebla. As a result of the pontiff's pronouncements, it would seem that the official Roman Catholic position has moderated from that taken at CELAM II. The pope's major emphasis was clear: social injustice should be opposed vigilantly, but the Church must not become politicized. Violent reform is to be eschewed. The final conference document criticizes capitalism, Marxism, and the national security ideologies of many Latin American regimes. Pope John Paul II was reportedly delighted with the final document.[20]

Despite the moderation of CELAM III, however, a significant number of Roman Catholic priests and bishops in Latin America remain committed to massive sociopolitical change and the protection of human rights from repressive regimes. Consequently, church-state tension is likely to continue high in some Latin American states as secular and religious leaders disagree over political and social policies.

The church and racism in Southern Africa

When the World Council of Churches (WCC) announced in 1978 that it would award an $85,000 grant to the Patriotic Front, a black nationalist guerrilla organization fighting in Rhodesia, reaction by some member churches was out-

20. *Facts on File* 39 (16 February 1979): 108–9.

spokenly negative. The money reportedly came from the WCC special fund to combat racism. The fund has given an estimated $3 million to combat racism since 1970, with more than one-half going to black guerrillas in Africa.[21] WCC spokesmen announced that the money came from specially designated funds and did not include the contributions of member churches. Nonetheless, the Salvation Army Church announced its withdrawal from the WCC, primarily because of allegations that the Patriotic Front had been involved in the killing of several missionaries, including representatives of the Salvation Army. Others questioned the wisdom of the WCC's involvement in a political conflict and an escalating guerrilla war. Although the money was earmarked for food, medicine, and other humanitarian expenditures, the question of its possible use for military supplies was also raised. The WCC grant was especially controversial in Great Britain. Ministers of the Church of Scotland were asked to assure their congregations that none of their contributions had gone to the special fund. In Great Britain, only the Methodist Church has contributed to the fund. The incident would seem to raise serious questions about the ability of the WCC to take direct action in a political conflict.

In the officially apartheid Union of South Africa, a somewhat different situation exists between the church and racial policy. South Africa's largest Dutch Reformed Church, the *Nederduitse Gereformeerde Kerk* (NGK), is under severe pressure from its nonwhite churches. According to reliable sources, considerable anti-regime activity is under way among the 2.4 million "Colored" (mixed race) NGK members, 1.6 million black members, and smaller Indian churches, all of which are officially separated from the nearly 1.6 million white NGK members. Evidence of racial unrest within the Dutch Reformed churches came in March 1979, at a "consultation" on "the church and social justice" in Pretoria. The conclave was quickly taken over by numerically superior black, colored, and Indian leaders who outvoted white delegates on a wide range of resolutions. Most of the resolutions run counter to official church and government policies, including an end to segregated education and repeal of the ban on mixed marriages.

In mid-1978, the South African Council of Churches, an ecumenical body representing churches claiming 15 million members, urged foreign countries to revise radically their investment policies in South Africa. It was argued that foreign investment only bolsters the dominant position of the ruling white minority.[22]

STATE OPPOSITION TO RELIGIOUS ACTIVITY

The previous section focused upon the confrontation between secular and religious spheres concerning the shape and direction of public policy. With some obvious exceptions, however, each side generally recognizes the right of the other to exist. A somewhat different situation exists when the state seeks to severely limit and perhaps ultimately destroy religion as a meaningful force within its borders. In this section, the emphasis is

21. *Facts on File* 38 (24 November 1978): 906–7.

22. *New York Times*, 13 July 1978, p. 7.

placed upon state persecution of religious activity, ranging from the extreme antireligious approach of most Communist states to the selective religious persecution of several other countries.

The Soviet Union and Eastern Europe

It is generally well known that the Soviet bloc countries officially proclaim atheism. While constitutions routinely guarantee "freedom of religion," they often make the practice and teaching of religion very difficult, if not actually illegal. While it is impossible to explore the status of each religious group under Communist rule, several recent tendencies can be discerned.

In recent times the attention of the world has been directed toward the treatment of dissidents in the Soviet Union. Of course, a dissident is any person who is viewed by the state as an actual or potential troublemaker. Not all dissidents are religious dissidents, although several of those brought to trial in the 1970s have been associated with religious groups. Probably the most publicized religious dissidents have been Soviet Jews desiring to emigrate to Israel or the United States. Numerous Jews have been tried and convicted of assorted crimes stemming from their demands for permission to emigrate. A 1978 trial which attracted widespread attention was that of Anatoly Shcharansky, who was sentenced to thirteen years of hard labor on charges of treason. However, perhaps because of the Kremlin's alleged interest in detente or its embarrassment over the massive publicity concerning the dissidents, emigration visas have been increasing steadily since the beginning of 1978. According to the Intergovernmental Committee for European Migration, about 30,000 Jews were authorized to leave the Soviet Union in 1978.[23] According to the National Conference on Soviet Jewry, over 4400 Soviet Jews reached Vienna in March 1978, the highest reported monthly total in history.[24] While not an indication of increased toleration by Soviet leaders, it does suggest a shift in state policy.

According to a report from the All-Union Council of Evangelical Christians-Baptists, the Soviet Union in late 1978 granted permission to Baptists to import 25,000 Bibles and 5,000 Bible concordances in the Russian language. The project was aided by the Baptist World Alliance and the United Bible Societies.[25] Later reports have indicated that the Bibles were being distributed to Baptists in early 1979. On the other hand, it is not uncommon to read of arrests of Soviet citizens who have held Sunday School or otherwise have instructed children about religion. Perhaps these isolated events suggest that Soviet leaders are still troubled with the religious practices of parts of the population, but they may not quite know how to deal consistently with the problem.

One recent development which cannot yet be fully assessed is the selection of Polish Cardinal Karol Wojtyla as Pope John Paul II. Long an outspoken critic of state suppression of religious freedom while serving as the Archbishop of Cracow, John Paul II poses a real challenge to nearly all communist countries with significant Catholic populations. The Pope's June 1979 visit to his native Poland drew literally millions of worshippers wherever he went.

23. "Notes on Church-State Affairs," *Journal of Church and State* 21 (Winter 1979): 171.

24. *New York Times*, 4 March 1979, p. 1.

25. *Baptist Times*, London (9 November 1978), p. 3.

Being careful not to antagonize the Polish Communist Party directly, John Paul II spoke out forcefully for religious liberty, urging his countrymen to remember their Christianity. To Communist leaders, the sight of a Polish pope as the leader of the world's nearly 700 million Roman Catholics must seem both ironic and threatening. In the Soviet Union, with a significant Roman Catholic population in the Ukraine, increased religious fervor must be viewed as potentially threatening. The most immediate impact of John Paul's papacy will be felt within his native land, but long range effects are impossible to predict at this time.

Reports from other Eastern European countries in the past year suggest that secular leaders continue to be concerned with religious activity. In officially atheist East Germany, Socialist Unity (Communist) Party Leader Erich Honecker initiated a state-church detente in early 1978. In May of that year approximately 50,000 persons gathered in Leipzig to attend the Lutheran convention for the state of Saxony. Reportedly, state officials aided the convention's organizers by providing food, scheduling transportation, and allowing use of the Leipzig fairground. Still, religious leaders have suggested that conflict exists over such issues as the admission of practicing Christians to the last years of secondary education and to universities, conscientious objection, and restoration of contacts with the Lutheran churches of West Germany.[26] Early in 1979 the eight regional Protestant churches agreed to establish a "united evangelical church in the German Democratic Republic" by the fall of 1981.[27] The unity provided by such a church seemingly would offer advantages in confronting the official atheism of the government.

In Yugoslavia, the Holy Synod of the Serbian Orthodox Church forwarded a ten-point request to Serbian authorities asking for increased religious freedom. Issued in mid-1978, the request asked that municipal authorities refrain from interfering in religious matters. Included among the ten points were requests that children receiving religious education not be discriminated against and that the news media stop making fun of Christian believers.[28]

Church-state controversy erupted in Rumania in 1977 when six dissidents issued an "Appeal for Religious Freedom." Their appeal listed numerous charges concerning the government's persecution of evangelical believers in Rumania. Specifically, the appeal alleged that Baptist, Pentecostal, and Brethren Christians had been demoted or dismissed from their jobs because of their religious affiliation. Other complaints concerned the fining of Christian groups meeting privately for prayer or worship, as well as the discrimination against children of evangelical believers in schools.[29]

Finally, in Hungary, which has sizable numbers of practicing Catholics and Protestants, the regime seems to have taken a somewhat softer line with respect to religion, although atheism remains the official government stance. Official visitors in recent years have included the

26. "Notes on Church-State Affairs," *Journal of Church and State* 20 (Autumn 1978): 602–3.

27. *New York Times*, 1 February 1979, p. 4.

28. "Notes on Church-State Affairs," *Journal of Church and State* 20 (Autumn 1978): 639.

29. "Notes on Church-State Affairs," *Journal of Church and State* 19 (Autumn 1977): 629.

Reverend Billy Graham and the Reverend Martin Luther King, Sr. Hungary was one of only three Eastern European countries—the others being Poland and Rumania—that showed the televised funeral of Pope Paul VI in its entirety.

It is difficult to draw conclusions about the myriad church-state developments in the Soviet Union and Eastern European countries. One fact, however, is absolutely certain: Atheism remains the official ideology of the state; therefore, religious activity cannot be encouraged. In countries with large numbers of believers, like Poland and Hungary, the state has been forced to make accommodations to the religious demands of the populace. Still, in nearly all Communist societies, the religious believer continues to face job and educational discrimination at nearly every turn.

Other Communist states

Reports from Vietnam, Laos, and Cambodia claim that state officials have widely suppressed most Buddhist practices. For example, in Cambodia, it is known that Buddhist temples have been confiscated or closed, Buddhist monks relocated to work in the fields, and religious practices drastically curtailed. According to a report by the deposed supreme patriarch of Laotian Buddhists, Thammayano, the future of Buddhism in Laos is highly uncertain. Thammayano's spokesman has charged that the government has abolished the office of Patriarch, discouraged young men from joining the monkhood, and confined some monks to labor camps.[30] It is still too soon after the Vietnam-backed overthrow of the Pol Pot regime in Cambodia to discern any impact on the religious sphere. Given the many reports about persecution under Pol Pot, however, the new regime could hardly be any more destructive of religious activity. Finally, aside from an occasional worship service for foreign visitors in one of Peking's two churches, relatively little is known of church-state affairs in the People's Republic of China. Whether the normalization of relations with the United States will ultimately permit Christian missionaries back inside China is uncertain.

Non-Communist religious persecution

While Communist states, as a general rule, are officially opposed to all religion, other countries often seek to limit religious freedom only to certain groups. Motives vary widely, ranging from those that are wholly political to some that are based on ethnic differences or other causes for discrimination. Where there is a state religion, the motive may be to protect the territory of the established church. Under other circumstances, a politician may choose to play favorites among groups. For example, in 1977 former Ugandan President Idi Amin banned twenty-seven religious groups (most of them Christian), leaving only four legal religions in that country.

Jehovah's Witnesses reportedly have experienced growing persecution in several countries. Argentina's military government banned the Witnesses along with the Divine Light Mission and the Hare Krishna group in 1976. Hundreds of Witnesses' children reportedly have been expelled from school and adult Witnesses dismissed from jobs.[31] The hierarchy of the Greek Orthodox Church in late 1978 termed the

30. *New York Times*, 15 March 1979, p. 8.

31. "Around the World," *Church and State* 31 (December 1978):16.

Jehovah's Witnesses sect "anti-religious, anti-national, and subversive."[32] Subsequently, conscientious objector status for Witnesses opposed to military service was suspended in Greece, and several persons reportedly have been sentenced to jail terms for their refusal to serve. In 1979 the government of Paraguayan dictator Alfredo Stroessner banned the Witnesses just days before an international assembly of Jehovah's Witnesses was scheduled to meet in Asunción. According to the government, the sect was banned because of its refusal to salute the national flag, sing the national anthem, participate in public parades, honoring public figures, and serve in the military. Information from the Jehovah's Witnesses headquarters in Brooklyn, New York, indicates that Witnesses presently are either banned or strictly curtailed in 49 countries around the world.[33]

CONCLUSION

The cases discussed in this study have illustrated the wide variation in church-state developments around the world. Still, due to space limitations, numerous other developments could not be included. Violence in Lebanon and Northern Ireland, for example, is at least in part attributable to religious factors, although the role of the state in these two cases is one of near paralysis. In short, the patterns discussed in this study certainly do not exhaust the range of church-state relationships. It should not be taken from this study that the church-state relationship is purely one of direct conflict. However, the relationship has always been an uneasy one, with each side determined to protect its authority from assaults by the other. For this reason, the leaders of Iran are likely to discover that years of secularization are as difficult to erase as religious beliefs have been for Communist leaders. As long as secular and religious spheres continue to insist on a distinct version of public policy, however, disagreements are certain to exist. It can only be hoped that these disagreements do not escalate into an attempt at total domination by either church or state leaders, for both sides will surely lose in such a confrontation.

32. Ibid.

33. "Around the World," *Church and State* 32 (March 1979):24.

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Governmental Attempts to Define Church and Religion

By CHARLES M. WHELAN

ABSTRACT: To conform to the constitutional provisions separating church and state, public officials must be able to distinguish between churches and other types of institutions. They must also be able to distinguish between beliefs, activities, and organizations that are religious and those that are not. Before 1969 there was very little disagreement between the American churches and the federal and state governments about the legal meanings of church and religion. Since 1969, however, Congress and some federal agencies (notably the Internal Revenue Service) have adopted some legal phraseology that is extremely offensive to the churches because it divorces the charitable, educational and social welfare activities of the churches from their religious mission. The resulting discord, tension and threat to the proper legal understanding of religion and church can be resolved only through changes in the terminology that the government has created. To bring about these changes, the churches must engage in greater collaboration with each other, and in more frequent and cordial discussions with government officials.

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THE constitutional separation of church and state, and of government and religion, has one somewhat paradoxical result: government must get into the business of defining the nature and functions of religion and churches.

For the separation of church and state to be a reality, government must be able to recognize and articulate the basic differences between churches, business corporations, labor unions, political parties, schools, hospitals, and museums. If government lumps churches indiscriminately for legal purposes with any one of these groups, there cannot be any distinctive separation of church and state.

In order to respect the no establishment and free exercise commands of the First Amendment, government must also be able to recognize and articulate the basic differences between religion and other types of belief, and between religious practices and other forms of behavior. There cannot be any distinctive legal meaning for "no establishment" or "free exercise" if government treats religious activities exactly the same way it treats business activities, political activities, or philanthropic activities.

It is only in the last ten years that church leaders have begun to voice considerable and concerted concern over governmental attempts to define church and religion. Before 1969, there was a strong but unarticulated consensus among the American churches, the federal and state governments, about the legal concepts of church and religion. Most probably, the consensus was strong because it was unarticulated.

The only major challenge to that consensus occurred in the nineteenth century when the Mormons claimed a religious right to practice polygamy. The Mormons lost decisively when the Supreme Court rejected the religious claim as spurious, and upheld the right of Congress to dissolve the Mormon Church's corporate charter and to confiscate all the Church's property not actually used for religious purposes.[1] The Mormons, of course, survived the crisis, but only by relinquishing the practice of polygamy.

Today, however, the Mormons find themselves united with many other American churches in growing discontent with some recent federal and state decisions about what is or is not a church, and what is or is not religious. Nothing as interesting as polygamy lies at the root of this growing discontent. Instead, we are witnessing another intrusion of the welfare state, with its insatiable demands for information, money and regulation, upon the traditional preserves of churches and religion.

After summarizing the most important criteria that the federal and state governments have used to distinguish between churches and other types of organizations, and between religion and other types of beliefs and practices, some recommendations will be offered on how to mitigate the discord that has recently arisen between the American churches and the federal and state governments over the legal meaning of religion and church.

LEGAL LOCI OF CHURCH AND RELIGION

The word "church" does not occur anywhere in the United States Constitution. The word "religion" occurs

1. *The Late Corporation of the Church of Jesus Christ of Latter-Day Saints* v. *United States*, 136 U.S. 1 (1890).

only in the First Amendment, which forbids Congress to make any law "respecting an establishment of religion, or prohibiting the free exercise thereof." The word "religious" occurs only in Article VI, Clause 3, which forbids the imposition of any "religious Test . . . as a Qualification to any Office or public Trust under the United States."

The words "religion" and "religious," however, occur with greater frequency in the constitutions of the fifty States. These same two words, plus "church," "churches," "conventions or associations of churches," and various other religious terms—house of worship, denomination, sect—occur with substantial frequency in federal and state statutes, administrative regulations and judicial decisions.

The most common reason for the inclusion of these terms in federal and state laws is to create religious exemptions from general secular laws. Under the Supreme Court's decisions, some religious exemptions are mandated by the Constitution, some are permitted, and some are forbidden.

The exemption of the Amish from compulsory education beyond the eighth-grade level is an example of a mandatory exemption.[2] The exemption of houses of worship, in common with schools, hospitals and many other types of nonprofit organizations from property taxes is an example of a permissible exemption.[3] An income tax reduction, however, only for persons paying tuition to nonpublic elementary and secondary schools (most of which are church-related and, indeed, Roman Catholic) is a forbidden exemption.[4]

2. *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972).
3. *Walz* v. *Tax Commission*, 397 U.S. 664 (1970).
4. *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973).

When legal controversies arise about the meaning of church, religion, or a similar term in the constitutions, statutes, and administrative regulations of the federal and state governments, one person or institution is usually asserting entitlement to a religious exemption and a government official is usually denying entitlement.

The controversy may be about whether a particular activity is or is not religious in the legal sense, or about whether a particular institution is a church (or part of a church) in the legal sense. The controversy may also be about whether the claimed religious exemption is mandatory, permissible, or forbidden.

Government officials are most reluctant to concede that any exemption is mandatory, because mandatory exemptions limit government power by leaving the government no choice but to honor the exemption. Accordingly, when an individual or institution asserts that some religious exemption is mandatory, the government is likely to resist on all fronts. The government will try to prove that the claimant is not a church, or that the belief, activity, or organization in question is not religious. The government will also try to prove that even if the claim is truly religious, the exemption is not mandatory.

Conversely, individuals and institutions are most likely to insist upon the religious character of a belief, activity or organization, or the church identity of an institution, when government officials claim the authority to suppress the activity or the institution. The Mormons claimed that polygamy was a religious practice in the legal sense precisely because they knew that their only hope of resisting legal suppression of the practice lay in persuading the courts that they were right—legally right,

regardless of what the courts thought about their religion.

It is important, therefore, in evaluating governmental definitions of church, religion, and similar terms to attend to the factual circumstances in which those definitions were made. If the political or religious stakes were high, it is likely that the definition will have been framed to secure the desired result rather than on the basis of any scientific, historical or objective study of what church and religion have traditionally meant.

It is also important not to assume that the words "church" and "religion" mean the same thing in every legal document in which they occur. The fifty states are free to create their own legal vocabularies, and so is the federal government. The framers of a constitution may have meant something different by church or religion than the draftsmen of subsequent statutes. Administrative officials, who have the practical burden of actually implementing the constitutions and statutes in a multitude of factual situations, may write regulations that give still a third meaning to the terms.

Fortunately, the actual variations in the legal meaning of church, religion, and similar terms do not come anywhere close to matching the theoretical possibilities. Because the United States Constitution is the supreme law of the land, and because the Constitution uses the word "religion" in the First Amendment, the decisions of the Supreme Court interpreting that word have had a profound effect on unifying the legal meaning of the word "religion."

Although the Constitution does not use the word "church," the Supreme Court has made it abundantly clear that both the no establishment and the free exercise clauses of the First Amendment are very much concerned with what churches are and what they do. The Court has never dealt explicitly with the question whether a particular organization was a church or not, but in several types of cases the Court has given clear indications of what types of organizations it considers to be churches or essential parts of a church.

THE CONSTITUTIONAL MEANING OF RELIGION

The Supreme Court has applied the term religion to three distinct classes: beliefs, activities and organizations.

Beliefs

The constitutional concept of religion certainly includes all the systems of belief commonly recognized as religions. In the Mormon cases of the late nineteenth century, the Supreme Court treated Christian beliefs as normative of what was religious. The Court explicitly and unabashedly rejected the Mormon contention that their belief in the practice of polygamy was religious; the reason the Court gave was that belief in polygamy was not in accord with the tenets and practices of Christianity.[5]

In subsequent cases, however, the Court has abandoned the Christian norm and substituted "common understanding" as the test. In a case dealing with a Maryland law that required public officials to declare their belief in the existence of God, the Court held the law unconstitutional and stated that the word "religion" clearly embraced nontheistic as well as theistic religions.[6] To require public officials to believe in God would violate the First Amendment by preferring one type of religion over another.

5. *Davis* v. *Beason*, 133 U.S. 333 (1890).
6. *Torcaso* v. *Watkins*, 367 U.S. 488 (1961).

In some of the conscientious objector cases, the Court has intimated very strongly that religion also includes certain types of purely personal beliefs that function in the lives of their adherents in the same way that traditional religious beliefs function in the lives of their adherents. In short, it is not necessary to belong to a denomination, church or sect in order to have a religion in the constitutional sense. Even in these cases, however, the Court has stressed that there is a basic legal distinction between religious beliefs and purely economic, social or political beliefs.[7]

Despite some earnest recommendations that it do so,[8] the Court has not yet adopted the "ultimate concern" test for determining whether a belief is religious. Under this test, any belief whatsoever would be religious if it were the core concern of an individual.

There are several good reasons why the Court should not adopt the ultimate concern test. First of all, it is not necessary to categorize every deeply held belief as religious in order to maximize religious freedom. It is sufficient for the courts to hold tenaciously to the principle that government may not promote religion at the expense of irreligion or nonreligion. Secondly, the passionate Marxist or secularist may justly complain at the imposition of a religious label that he has deliberately rejected and that is not justified by common usage or legal necessity.

Moreover, there is no historical justification for requiring any degree of passion or ultimate concern for the characterization of a belief as religious. The First Amendment has protected, and should continue to protect, the lukewarm as well as the zealous, the doubters as well as the devotees, and the sinners as well as the saints. Finally, while it is appropriate for the courts to inquire into the sincerity with which a religious belief is held, it would be an altogether different and much more difficult thing for the courts to require an individual to prove that he would suffer martyrdom rather than compromise his religious beliefs. The intensity with which religious beliefs are held, and the importance of their practical consequences in the lives of individuals who hold them, fluctuate with time and one's experiences in life.

The ultimate concern test, however, has some merit as a supplement to the common understanding test. Individuals should not be required to belong to recognized religions as a condition of having their beliefs recognized as religious.

On the other hand, the Supreme Court is unquestionably on solid historical ground in refusing to recognize every "ultimate concern" as religious. Religion in the First Amendment was never meant to include every form of passionately held belief or commitment. Greed, lust, ambition and self-gratification do not acquire religious status by becoming the ultimate concerns of an individual's life. And if separation of church and state is to mean anything, there has to be a substantial legal distinction between religious and purely political, social and economic beliefs.

Following the lead of the Supreme Court, the state and lower federal courts have included within the meaning of religion all those systems of belief commonly recognized as

7. See, for example, *United States* v. *Seeger*, 380 U.S. 163 (1965), and *Welsh* v. *United States*, 398 U.S. 333 (1970).

8. See the Note, "Toward a Constitutional Definition of Religion," 91 *Harvard Law Review* 1056 (March, 1978).

religious and those systems of belief that are the counterparts of traditional religion in the minds and hearts of their adherents. Thus, Ethical Culture is definitely a religion in the constitutional sense.[9]

One federal court has even gone so far as to hold that the beliefs of the Universal Life Church amount to a religion in the constitutional sense. The only tenet of this Church is "Do what is right." The Church ordains anyone, upon request, through the mail. Because of the peculiar way in which the Department of Justice litigated this case, the trial court's decision seems more right than wrong. The judge stated: "Neither this Court, nor any branch of this Government, will consider the merits or fallacies of a religion. Nor will the Court compare the beliefs, dogmas, and practices of a newly organized religion with those of an older, more established religion. Nor will the Court praise or condemn a religion, however excellent or fanatical or preposterous it may seem. Were the Court to do so, it would impinge upon the guarantees of the First Amendment."[10]

Evidently, the Department of Justice did not make a frontal assault on the sincerity of Kirby Hensley, the founder of the Universal Life Church. In public appearances after the case was decided, Mr. Hensley has not hesitated to proclaim that the sole purpose he had in founding the Universal Life Church was to discredit religion and to bring about the abolition of all religious tax exemptions.

In other cases, however, the state and lower federal courts have shown considerable willingness to pierce the sham of fake religions. For example, in a case involving the Neo-American Church (another California contribution to religious life in America) and its liturgical use of marihuana and LSD, Federal District Judge Gerhard A. Gesell forthrightly ruled that the tenets of the Church were not a religion within the meaning of the First Amendment.

In explaining his decision, Judge Gesell stated:

> The dividing line between what is and what is not a religion is difficult to draw. The Supreme Court has given little guidance. Indeed, the Court appears to have avoided the problem with studied frequency in recent years. Obviously this question is a matter of delicacy and courts must be ever careful not to permit their own moral and ethical standards to determine the religious implications of beliefs and practices of others. Religions now accepted were persecuted, unpopular and condemned at their inception.
>
> Subtle and difficult though the inquiry may be, it should not be avoided for reasons of convenience. There is need to develop a sharper line of demarcation between religious activities and personal codes of conduct that lack spiritual import. Those who seek the constitutional protections for their participation in an establishment of religion and freedom to practice its beliefs must not be permitted the special freedoms this sanctuary may provide merely by adopting religious nomenclature and cynically using it as a shield to protect them when participating in antisocial conduct that otherwise stands condemned. In a complex society where the requirements of public safety, health and order must be recognized, those who seek immunity from these requirements on religious grounds must at the very least demonstrate adherence to ethical standards and a spiritual discipline.[11]

9. *Washington Ethical Society* v. *District of Columbia*, 249 F.2d 127 (D.C. Cir. 1957).

10. *Universal Life Church* v. *United States*, 372 F. Supp. 770, 776 (E.D. Calif. 1974).

11. *United States* v. *Kuch*, 288 F. Supp. 439, 443–44 (D.D.C. 1968).

Judge Gesell then examined the evidence and found very little to support the claim of the Neo-American Church and its members that they were motivated by or associated together because of any common religious concern. There was no solid evidence of "belief in a supreme being, a religious discipline, a ritual, or tenets to guide one's daily existence." It was clear to Judge Gesell that "the desire to use drugs and to enjoy drugs for their own sake, regardless of religious experience, is the coagulant of this organization and the reason for its existence."[12]

In other cases, notably those involving the use of peyote by native American Indians, courts have found that the possession and use of drugs otherwise proscribed by law were parts of genuine religious rituals based on authentic religious beliefs, and therefore were protected by the free exercise clause of the First Amendment.[13] There is no reason to believe that Judge Gesell would have disagreed with the reasoning and results of the peyote cases. What all of the drug cases stand for is the proposition that a belief does not become religious in the constitutional sense merely by being professed as such. The believer must be sincere, and the belief must have much more to do with the meaning and morality of human life than a simple creed of self enjoyment.

A much more difficult question is presented in cases dealing with the religious beliefs of persons who are seriously mentally ill. For example, in 1968 the Supreme Court of Connecticut had to decide whether Peter R. Mayock's constitutional right to the free exercise of religion was being violated by the refusal of Morgan Martin, Superintendent of Norwich State Hospital, to release Mr. Mayock from confinement in that institution.

The court found that Mr. Mayock sincerely believed that he had a message and a mission from God. As part of that mission, he removed his right eye on July 23, 1944 as an offer of thanks to God for the revelation he had received and because he believed that God had commanded him to do it. Almost immediately after the mutilation, Mr. Mayock was committed to the Norwich State Hospital, where he was confined for a time and then released on probation. On July 20, 1947, the last day of his probation, he was examined by a staff physician and unconditionally discharged from the hospital.

Three days later, he removed his right hand as a covenant between God and himself as the only person God called upon to make such spiritual sacrifices for the establishment of world peace, love and brotherhood.

Shortly after this second act of mutilation, Mr. Mayock was again committed to the state hospital. After twenty years of confinement, during which he was a model patient, never performed any self-injurious act, and managed the hospital's newsstand and its recreation center for parole-privileged patients, he sought release from the hospital so that he could better express his divine message to the people and government of Connecticut.

Mr. Mayock stated that he did not plan to cut off either of his feet or any other part of his body, but that he would cut off his foot either as a freewill offering to God or in response to a revelation from the Lord.

Mr. Mayock's mental condition had been diagnosed continuously

12. Ibid. at 444.

13. See, for example, *People v. Woody*, 61 Cal.2d 716, 40 Cal. Rptr. 64, 394 P.2d 813 (1964).

from 1943 to 1968 as dementia praecox, paranoid type. The only evidence the psychiatrists had for this diagnosis was Mr. Mayock's beliefs regarding his role as a prophet, his divine message and the meaning of sacred scripture, and Mr. Mayock's removal of his eye and amputation of his hand. The psychiatrists testified that Mr. Mayock's religious beliefs were grandiose, grossly false, and a fantasy that was one of the primary symptoms of schizophrenic reaction, paranoid type. The psychiatrists also testified that Mr. Mayock's removal of his eye and hand were not manifestations of a religious belief, but indications of a mental illness. Finally, the psychiatrists testified that there was a possibility that Mr. Mayock, upon release from the hospital, might cut off his right foot.

In a 4–1 decision, the Supreme Court of Connecticut held that Mr. Mayock had no constitutional right to be released from the state mental institution. All five members of the court agreed that Mr. Mayock's beliefs and actions were not religious but symptoms of mental illness. Four justices held that the possibility that Mr. Mayock might cut off his right foot justified his continued confinement; the fifth judge held that Mr. Mayock could not be confined unless the hospital could show that "the risk of self-inflicted mayhem on his part" was "substantially greater than for normal citizens engaged in the many hazardous pursuits of modern life."

In explaining its decision, the Supreme Court of Connecticut stated: "It is common knowledge that the mental illness of many persons is associated with apparently fervent religious beliefs."[14] The difficulty with this statement is twofold: many genuinely religious persons suffer from some forms of mental illness; and the only evidence of Mr. Mayock's mental illness was the combination of his religious beliefs (which the psychiatrists unhesitatingly labeled "false") and his self-mutilation in response to those beliefs.

The *Mayock* decision is the most disturbing of the judicial attempts to define religion—not because there is no line of demarcation between religion and madness, but because of the court's subservience to the psychiatrists. Doubtless, the judges were trying to act in Mayock's best interests; he seemed to be the kind of person who would be much better off himself, and with whom society could live much more comfortably, in the structured environment of a decently run mental institution. But to accept a belief in a special revelation and mission from God and self-sacrificial acts in reliance on that belief as proof of confinable insanity is to put the prophets and saints of this world outside the protection of the First Amendment.

It is at least doubtful that Mayock should have been confined after twenty years of exemplary behavior only because he might, if released, cut off his right foot. It is certain that he should not have been confined when the only evidence of his madness was his religion.

Activities

The discussion of the Mormon, Amish, drug, and mental illness cases has already taken us from the realm of pure belief into the arena of action. The courts have held that polygamy is not a religious act; that the refusal of the Amish to give their children a typical American high

14. *Mayock* v. *Martin*, 157 Conn. 56, 63, 245 A.2d 574, 577 (1968).

school education is; that the use of drugs may or may not be; and that self-amputation of an eye or foot is not.

It is evident from these decisions that the same activity may or may not be religious in the legal sense. The proper characterization depends upon the total context and the particular history of the person or group performing the act.

When the same activity is religious for some people but not for others, or religious in one context but not in another, the government may promote and support the activity as long as it does so for secular reasons and in a secular context. Thus, Trappist monks follow a vegetarian diet for religious reasons; but that does not prevent the government from recommending vegetarian diets to people whose health would benefit from such a diet.

Similarly, despite a recent court decision to the contrary,[15] it would seem entirely proper for public schools to teach children certain meditational techniques, such as those used in Transcendental Meditation or even in the Spiritual Exercises of St. Ignatius Loyola. These techniques have long been associated with prayer in both Eastern and Western religions, but they are capable of being employed as secular disciplines of self-control and for relaxation of emotional tension.

Prayer itself, however, and certain other kinds of activity are so traditionally and inherently religious that the Supreme Court has held that the free exercise clause protects their performance by believers and that the no establishment clause forbids their support or promotion by the government. Besides prayer, such activities include worship, preaching, proselytizing, the distribution and sale of religious literature, the conduct of parochial schools and religious formation programs, and, of course, the operation of a church. By way of contrast, the Court has asserted that the study of the Bible as literature, the academic study of religion, and the establishment of Sunday as a common day of rest are not religious activities.

In evaluating the significance of these classifications by the Supreme Court, it is important to remember that the characterization of an activity as religious in the constitutional sense does not mean that the government cannot regulate or even suppress the activity.

Street preachers have to obey the same traffic and noise regulations that other types of speakers have to obey. The government needs only a reasonable justification for such regulations, which are designed to accommodate the rights of all members of the public.

If, however, government seeks to suppress an activity that is religious in the constitutional sense, government bears a much heavier burden of justification. Government must show that suppression is the only way to achieve a compelling public interest or to preserve the rights of others.

Thus, when parents refuse, for demonstrably religious reasons, to authorize medical treatment necessary for the lives of their children, government may step in, take temporary custody of the children, and provide the necessary medical treatment. The right of the parent to practice his religion is not a right to doom the life of the child.

In the late nineteenth century, the Supreme Court viewed the suppression of polygamy as necessary for the preservation of American

15. *Malnak* v. *Yogi*, 440 F. Supp. 1284 (D.N.J. 1977).

family life, which it viewed as the whole foundation of the American political and social order. Today, in the religious drug cases, the state and federal courts have held that the drug traffic presents such a serious menace to American society that the government is justified in suppressing the religious use of drugs, except in the very special circumstances demonstrated by some native American Indians with regard to their traditional and carefully limited use of peyote.

During the Prohibition era, the federal and state governments permitted the use of alcoholic beverages for sacramental and medicinal purposes. Accordingly, religions like Christianity and Judaism that use wine in their liturgies were free to conduct their services without violating the law. If no exception had been made for these services, government would have had to prove that the suppression of the use of wine in such services was absolutely necessary to deal with the serious social problems caused by alcoholism.

The creation of special exemptions for religious activities may seem to some to violate the no establishment clause of the First Amendment, which forbids the government to help or hinder religion. Certainly, the exemption is a help to religious practice. Equally certainly, the absence of an exemption would be a hindrance.

The Supreme Court has yet to deal in any comprehensive or illuminating way with the effect of the no establishment clause on the constitutionality of religious exemptions. Instead, the Court, confronted with considerable terminological difficulties of its own making, has held that some religious exemptions are mandated by the free exercise clause, some are forbidden by the no establishment clause, and some are left, by both clauses, to the discretion of the government.

Some authors have suggested that one way for the Supreme Court to escape from the terminological difficulties is to hold that religion means one thing in the no establishment clause and something else in the free exercise clause. To date, the Supreme Court has shown no willingness to adopt the suggestion. The word "religion" occurs only once in the First Amendment, and it is the direct object of both the no establishment and free exercise clauses. Although there is room for enormous improvement in the language the Supreme Court has used in explaining the meaning of religion, no establishment, and free exercise, it seems unlikely that bifurcation of the meaning of religion in the two clauses is justifiable, historically or in the light of current conditions, as a means of achieving that improvement.

Perhaps the real fault lies with the framers of the First Amendment, who prized conciseness over precision. They used remarkably terse phrases to express remarkably complicated ideas. In a few clauses they summarized—or more accurately, symbolized—whole sets of legal propositions dealing with freedom of religion, speech, press and assembly. Accordingly, historical research into the way the framers and ratifiers of the First Amendment understood these clauses and into the practical legal applications they made of these clauses is the indispensable first step for resolving the tension, with respect to religious exemptions, between the free exercise clause and no establishment clause.

Organizations

The actual words of the no establishment clause are that "Congress

shall make no law respecting an establishment of religion." If the last three words are taken together as a term of art, the clause could mean "no law respecting a religious organization." The Supreme Court, however, has taken the last five words together as a phrase of art, and has interpreted them to mean "no law establishing, or tending to establish, a religion."

Although the Supreme Court has resolved a number of cases dealing with the application of the First Amendment to religious organizations and churches, the Court has not yet chosen to decide a case in which the central issue was whether a particular organization was religious, or whether a particular religious organization was a church. For the most part, the Court has been concerned with the religious characterization of beliefs and activities, not the religious characterization of organizations.

It is clear, however, from the Supreme Court's decisions dealing with property disputes within a church and with the various laws providing assistance to education in church-related elementary and secondary schools that the Court recognizes all the major American denominations as religious organizations and, indeed, churches.

Moreover, so far as constitutional law is concerned, the Supreme Court has not yet flatly decided that religious organizations that are churches enjoy any greater First Amendment rights (or suffer any greater First Amendment disqualifications under the no establishment clause) than religious organizations that are not churches. Nevertheless, it would be surprising if, in some of the cases that are bound to come before the Court in the next decade, the Court refused to accord at least a "first among equals" position to churches in the constitutional ranking of religious organizations.

In the cases dealing with government aid to education in church-related elementary and secondary schools, the Supreme Court has clearly recognized that such schools, at least as they presently operate in the United States, are so much a part of the instructional and formational religious mission of the churches that the schools are subject to the same restrictions on public assistance as the churches themselves. Put more simply, the Court has held that such schools are integral parts of the churches.

In the constitutional sense, then, church is not limited to a house of worship or even to a denomination. The term embraces all those parts of the church that carry on its specifically instructional and formational religious mission, whether those parts exist as separate legal corporations or simply as divisions of the parent church corporation.

To date, the Court has ruled only once on the constitutional relationship between a church and its social welfare agencies, such as hospitals, orphanages, and old-age homes. The case involved a Roman Catholic hospital that was separately incorporated, and the Court held that purely de facto control and operation of the hospital by Roman Catholic nuns did not make the hospital a church or religious organization in the constitutional sense.[16]

This decision considerably antedates many of the church-state principles and applications that the Court has elaborated during the last thirty years, particularly in the aid-to-education cases. Nevertheless, even in these cases, the Court has recognized that the actual way in which an institution is conducted,

16. *Bradfield* v. *Roberts*, 175 U.S. 291 (1899).

and the clientele it actually serves, may well take a church-related institution outside the limitations on public assistance that the no establishment clause imposes on churches and religious organizations. For example, the Court has upheld both direct and substantial forms of public assistance to secular education in church-related colleges and universities, but has refused to do so with respect to church-related elementary and secondary schools.

Thus, the various organizations through which the American churches carry on their educational, charitable and social welfare activities may or may not be "parts of the Church" in the constitutional sense. Common understanding would dictate that they always be considered parts of the church in some sense; but the critical constitutional questions are whether they are so much parts of the church that they cannot be subsidized in any direct and substantial way by the government and also cannot be subjected to the same kinds of governmental control as nonsectarian and nondenominational charitable, educational and social welfare institutions.

In a recent case, the Supreme Court held that the National Labor Relations Board did not have jurisdiction over teacher-management labor relations in Roman Catholic parochial schools. The Court found the language of the governing statute ambiguous, and held that the extension of NLRB jurisdiction over such schools would present very grave constitutional questions. The Court refused to answer those questions until Congress unambiguously authorized the NLRB to exercise such jurisdiction.[17]

17. *National Labor Relations Board* v. *The Catholic Bishop of Chicago*,—U.S.—, 99 S.Ct. 1313, 59 L.Ed.2d 533 (1979).

Once again, as in the aid-to-education cases, the Court emphasized that Roman Catholic parochial schools, as they presently exist in this country, are integral parts of the Church's mission of religious instruction and formation. From the Roman Catholic Church's point of view, of course, all of its educational, charitable, and social welfare institutions are integral parts of its religious mission; but it is very unlikely that the Supreme Court would hold that Catholic hospitals are in the same constitutional relationship to the Church as its parochial schools.

The most likely reason why the Supreme Court has not said very much about the constitutional relationships between churches and their charitable and social welfare agencies is that, before 1950, federal statutes did not make any significant distinctions between churches and their component parts. Such distinctions were made, frequently without any deliberate purpose, in many of the early state property tax statutes, but these distinctions have been gradually obliterated or rendered obsolete by a general grant of tax exemption to all nonprofit charitable, religious and educational organizations.

As a result of some recent tightening of these exemptions in certain states, decisions are once again beginning to appear that draw legal distinctions between classes of religious organizations. In New York, for example, an "exclusively religious" organization is entitled to property tax exemption, but an "exclusively bible, tract or missionary society" no longer is.

One of the more remarkable results of this change in New York law is that America Press, Inc., which publishes *America*, the national Jesuit weekly journal of opinion, is entitled to property tax

exemption, but the American Bible Society, which distributes the Bible at below the cost of printing, is not. *America's* formal relationships with the Roman Catholic Church tipped the judicial scales in its favor. The lack of any formal denominational ties proved fatal to the Bible Society's claim of exemption.[18]

These state property tax cases, however, are not a major cause of the concern that the American churches are now experiencing over legal developments with respect to the definitions of church and religion. The major causes lie in certain recent federal statutes and regulations.

AREAS AND CAUSES OF CURRENT CONCERN

In 1950 Congress enacted the unrelated business income tax. Instead, however, of applying this tax to all exempt organizations, Congress exempted "churches and conventions or associations of churches" (and certain other classes of exempt organizations) from the tax. Religious organizations that were not churches had to pay the tax.

This distinction did not cause any major reverberations. The Treasury Department used it to force the Christian Brothers to pay tax on their wine and brandy business,[19] but even the Roman Catholics did not object to this. There were no other significant cases, and very little attention was paid to the distinction by the churches or the government during the fifties and early sixties.

In 1954 Congress once again made a tax distinction between churches and other types of religious organizations. Charitable contributions to churches were deductible up to 30 percent of an individual's adjusted gross income; charitable contributions to religious organizations that were not churches were deductible only up to 20 percent.

Once again, the distinction produced no outcry. Very few people even think about giving away more than 5 percent of their income. Moreover, contributions to many other types of exempt organizations, including schools and hospitals, qualified for the 30 percent level of deductibility. If a religious organization did not meet the church test for this level, it almost always met some other test. And, if necessary, a major contribution could always be given to a church, with the understanding that the church would decide to use it for the benefit of the particular religious organization the donor wished to help.

Congress did not define (and still has not defined) the difference between "religious organizations" and "churches or conventions and associations of churches." In 1958, however, the Treasury Department promulgated a regulation that defined the distinction as follows: A religious organization qualified as a church if it was a church itself, or if it was both an integral part of a church and one of the church agencies whose duties included "the ministration of sacerdotal functions and the conduct of religious worship."[20]

The conduct of religious worship was the really critical test. A reli-

18. *America Press, Inc.* v. *Lewisohn*, 74 Misc. 2d 562, 345 N.Y.S.2d 396 (Sup. Ct. 1973), aff'd mem., 48 App. Div. 2d 798, 372 N.Y.S.2d 194 (1st Dep't 1975), appeal denied, 38 N.Y.2d 708 (1976); *American Bible Society* v. *Lewisohn*, 170 N.Y.L.J., Nov. 20, 1973, at 17, col. 1 (Sup. Ct. 1973), rev'd, 48 App. Div. 2d 308, 369 N.Y.S.2d 725 (1st Dep't 1975), aff'd, 40 N.Y.2d 78, 351 N.E.2d 697, 386 N.Y.S.2d 49 (1976).

19. *De La Salle Institute* v. *United States*, 195 F. Supp. 891 (N.D. Calif. 1961).

20. Treas. Reg. § 1.511-2(a)(3)(ii), T.D. 6301, 1958-2 Cum. Bull. 222–23.

gious organization that did not carry on liturgical services was not a church, even if it was an integral part of a church and regularly carried on the other religious, educational and charitable activities of the church.

This regulation was designed to make the Christian Brothers taxable on their wine and brandy business, but leave the Jesuits alone with regard to their income from TV station WWL in New Orleans.[21] It was also designed to make church-related schools, hospitals, and similar institutions pay the tax, no matter how closely integrated they were into the structure of their churches.

This design was considerably clearer than the language that Congress actually used in the Internal Revenue Code. Congress had exempted churches, but taxed schools and hospitals. What about a church-related school or hospital?

Treasury, following its usual pattern of resolving all ambiguities against the taxpayer, opted to make all schools and hospitals pay the tax unless they were actually owned and operated by a church.

In the Tax Reform Act of 1969, Congress considerably broadened the tax consequences of being a religious organization but not a church. The distinction was no longer of much significance with respect to the unrelated business income tax; the 1969 Act made all exempt organizations subject to the tax. However, the Act introduced the distinction into a number of other areas, and most notably into section 6033 of the Internal Revenue Code.

This section governs the obligation of exempt organizations to file annual financial reports (Form 990) with the Internal Revenue Service. Before 1969, no religious organization, and no other type of exempt organization that was "operated, supervised, or controlled by or in connection with a religious organization" had to file Form 990. Nondenominational schools and hospitals had to file the form; church-related schools and hospitals did not.

In 1969 Congress made extensive revisions in section 6033. The most important of these, so far as the legal definitions of church and religion are concerned, are that religious orders (like the Jesuits or Christian Brothers) do not have to file Form 990 with respect to their exclusively religious activities, and that churches, conventions and associations of churches, and their integrated auxiliaries do not have to file Form 990 at all. Religious organizations that do not fit into any of these categories must file the detailed financial report required by Form 990 every year, unless they are excused from doing so by the Secretary of the Treasury or their gross receipts are normally less than $10,000 a year.

Congress introduced the phrases "integrated auxiliaries" and "exclusively religious activities" into section 6033 without the benefit of any prior hearings or serious opportunities for discussion. The first phrase, "integrated auxiliaries," had no legal or religious history whatsoever. The second phrase, "exclusively religious activities," had a legal history but not in the sense in which Congress seemed to be using it: a dividing line between religious, educational, charitable and other exempt activities.

21. For a full explanation of this point and for a more detailed exposition and analysis of the legal developments that I am summarizing in this section of this article, see my earlier article, "'Church' in the Internal Revenue Code: The Definitional Problems," 45 *Fordham Law Review* 885 (March, 1977).

Congress revised section 6033 because during the hearings that preceded the Tax Reform Act of 1969 it became very clear that the Internal Revenue Service had not been spending much time monitoring exempt organizations and had relatively little information about them. Moreover, fringe organizations, religious and otherwise, had multiplied during the early sixties and were attempting to exploit the advantages of tax exempt status. The hearings before the Tax Reform Act of 1969 persuaded Congress that something needed to be done immediately about the abuses in which private foundations were engaged. The hearings also persuaded Congress that more information was necessary generally about exempt organizations.

In choosing the phrases "integrated auxiliaries" and "exclusively religious activities of religious orders," Congress was attempting to strike some kind of middle ground between eliminating the religious reporting exemptions altogether and limiting them to churches. The church lobbyists persuaded Congress that "church" was too narrow a term, because of the very restrictive interpretation the Treasury Department had given the term in the 1958 regulation on the unrelated business income tax. Treasury, however, persuaded Congress that "auxiliary of a church" was much too broad a term, and would in no way restrict the pre-1969 religious reporting exemptions.

More in desperation than deliberation, Congress coined the phrases "integrated auxiliaries" and "exclusively religious activities of religious orders." In the conference report accompanying the Tax Reform Act of 1969, Congress explained that integrated auxiliaries included church religious schools, youth groups, and men's and women's clubs.

In 1971 Treasury issued new regulations to reflect the changes that Congress had made in section 6033. These regulations did not attempt to define integrated auxiliaries, but cited men's and women's organizations, religious schools, mission societies, and youth groups as examples.[22]

During the next six years, Congress added still more religious terms to the federal statutory vocabulary. What had threatened to become a swamp actually became a jungle.

In the 1972 amendments to the employment provisions (Title VII) of the Civil Rights Act of 1964, Congress exempted two kinds of educational institutions from the Act's prohibition against religious discrimination in employment: those whose curriculum is directed "toward the propagation of a particular religion," and those that are wholly or substantially "owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society." In another section of the 1972 amendments, Congress exempted "religious corporations, associations and societies" and "religious educational institutions" at least from the prohibition against religious discrimination, and perhaps somewhat from the other prohibitions against discrimination on the basis of race, sex, color and national origin.

In 1974 Congress enacted the Employee Retirement Income Security Act (ERISA), known popularly as the Pension Reform Act. Congress gave "churches and conventions or associations of churches" the option to keep "church plans" outside the Act's coverage; "church agencies," however, would be exempt only until December 31, 1982. Moreover, for a church plan to

22. Treas. Reg. § 1.6033-2(g)(1)(i), T.D. 7122, 1971-2 Cum. Bull. 397.

remain exempt, it must cover only church—not church agency—employees after December 31, 1982. The Act does not define church or church agency.

In 1976 Congress revised the unemployment compensation law. One of the amendments repealed the exemption of schools from coverage by the Act. Congress, however, left the religious exemption standing as it had before. This exemption covers organizations "operated primarily for religious purposes and . . . operated, supervised, controlled or principally supported by a church or convention or association of churches." Recently, the Department of Labor ruled that the effect of the 1976 amendments was to make parochial schools liable for the unemployment compensation tax with respect to their teachers. Many American churches have protested this ruling, arguing that their schools are manifestly "operated primarily for religious purposes" and that Congress had not clearly expressed any intent to tax such schools. Lawsuits are pending in many States, and it seems likely that the Supreme Court will have to decide this controversy.

In 1976, after considerable hesitation, Treasury proposed a new regulation defining "integrated auxiliaries." These regulations stated that the primary purpose of integrated auxiliaries had to be "to carry out the tenets, functions, and principles of faith of the church" and that the operations of the integrated auxiliaries had to "directly promote religious activities among the members of the church."[23]

The proposed regulations also gave examples of organizations that qualified and did not qualify as integrated auxiliaries. Seminaries qualified if their sole purpose was to prepare students for the ministry of a particular church and most of their graduates were ordained as ministers of that church. Religious youth organizations, men's and women's church fellowship associations, mission societies and religious schools also qualified.

Among the examples of church organizations that did not qualify as integrated auxiliaries were:

A church-related hospital that provides medical care for the entire community in which it is located.

A church-related old age home that provides services exclusively to the elderly members of that church's denomination.

Parochial elementary and secondary schools that provide general academic or vocational education to their students, even though such schools have a religious environment and promote the church's teachings.

The American churches were outraged by these proposed regulations. They saw clearly that the regulations, if adopted, would take all the charitable, educational and social welfare activities of the churches outside the federal statutory concept of a church.

The vehement and unanimous protests of the churches startled and somewhat nettled the responsible Treasury and Internal Revenue Service officials. The protests also resulted in some changes in the final text of the regulations, but not nearly enough to satisfy the churches.

The final regulations, published in January, 1977, provide that the "principal activity" of an integrated auxiliary must be "exclusively religious"—that is, not charitable, not educational, or any other type of activity exempt from income tax under federal law. Thus, church-related hospitals, orphanages, old-age homes and schools that provide a general as well as religious education cannot qualify as integrated

23. Proposed Treas. Reg. § 1.6033-2, 41 Fed. Reg. 6073 (Feb. 11, 1976).

auxiliaries. In the final regulations, however, the Secretary of the Treasury exercised his discretionary authority in favor of excusing church-related elementary and secondary schools from the obligation of filing annual financial reports.[24]

While the Department of Labor was wrestling with the unemployment compensation tax issue, and Treasury was trying to define integrated auxiliaries, the National Labor Relations Board asserted jurisdiction over teacher-management labor relations in parochial schools. There are no religious exemptions in the National Labor Relations Act, but in the exercise of its discretionary authority the Board had long refused to exercise jurisdiction over what it called "completely religious" organizations. Starting in the 1970s, however, and under the leadership of its Chairman, John Fanning (a devout Catholic who sent his own children to parochial schools), the Board asserted jurisdiction over schools that were "merely religiously associated." At one stage in the ensuing litigation, the United States Court of Appeals for the Seventh Circuit rejected the distinction between "completely religious" and "merely religiously associated" as a "simplistic black or white, purported rule" that "provides no workable guide to the exercise of discretion."[25]

As noted earlier, the Supreme Court cut short the entire discussion by holding that the National Labor Relations Act did not confer jurisdiction on the NLRB over teacher-management relations in parochial schools. Thus the NLRB has at least temporarily been removed from the current controversies over the meanings of church and religion in American law.

There are a number of other areas in which the legal meanings of these terms have also become a matter of current concern to the American churches. Most of these areas fall into the general category of federal and state tax exemptions. Some of the more recent proposals for the regulation of charitable solicitation and for the registration of lobbyists have captured the attention of church leaders, because the exceptions for churches and religious organizations have either been omitted or have been very narrowly drawn. In sum, however, all of these other areas present the same basic questions that we have seen in the discussion of the constitutional and statutory meaning of terms like religion, church, convention or association of churches, integrated auxiliaries and exclusively religious activities.

The question is whether there is any sensible way to stem the proliferation of religious terms in American law and to mitigate the discord between church and state that the proliferation has caused. The following recommendations are offered in the hope that they are both sensible and conciliative.

RECOMMENDATIONS

Since 1950, and especially since 1969, Congress has been trying to devise formulas that would accurately distinguish among four types of religious organizations: core church organizations such as houses of worship, seminaries and central administrative headquarters; closely related church organizations that serve the church's own membership or its proselytizing activities, such as youth and adult clubs, mission societies, and conventions or

24. Treas. Reg. § 1.6033-2 (1977).

25. *Catholic Bishop of Chicago, A Corporation Sole* v. *NLRB*, 559 F.2d 1112, 1118 (7th Cir. 1977).

associations of churches; charitable, educational and social welfare agencies of churches that serve the general public as well as the churches' own membership; and all other religious organizations, especially those not affiliated or connected with any particular church or group of churches.

The reasons why Congress has been trying to make these distinctions are not entirely clear. They seem to include: an unwillingness by Congress to extend all religious exemptions to the broad range of beliefs and organizations that would qualify as religious under the widest constitutional sense that the Supreme Court has given to that term; the apparent success of some groups, like the Universal Life Church (the mail-order ordination outfit in California), in exploiting the traditional "religious" and "church" exemptions; the reluctance of Congress to give church-related charitable, educational and welfare agencies that serve the general public the exemptions that Congress has chosen not to give to similar nondenominational agencies; the desire of Congress to have more reliable information about all exempt organizations, including churches and religious organizations; and perhaps, some irritation by Congress at the rather determined lobbying activities of churches and religious organizations that are aimed at both their self-interest and at changing basic national policies at home and abroad.

Church leaders need to take these concerns of Congress seriously to heart. At the same time, Congress and the agencies to which Congress has entrusted the implementation of federal statutes need to take the concerns of the churches seriously to heart.

In particular, Congress and the federal agencies need to be more sensitive to the interplay between the constitutional and the statutory senses of church and religion. These two senses do not have to coincide perfectly; but every time that Congress or the federal agencies try to make the statutory sense of church or of religion more restrictive than the constitutional sense, they should not be surprised at the vehement objection of the churches and other religious organizations.

If all parties concerned can recognize the legitimate concerns of the others, it should be possible to make considerable progress. Particularly recommended are the following points.

Congress should repeal "integrated auxiliaries" everywhere it appears in federal statutes, and should also repeal "exclusively religious activities" in section 6033. Neither phrase has proven effective in accomplishing the purposes for which Congress introduced it. Both phrases are extremely offensive to the American churches.

On their part, the American churches should openly admit that they can preserve the religious role of their schools, hospitals and similar institutions without insisting on exactly the same exemptions for these institutions as for the core church organizations. Many of the charitable, educational and social welfare agencies of the churches serve the general public and are financed in considerable part by public funds. There is much sense in requiring these organizations to fulfil the same legal obligations as their nondenominational counterparts.

Both the government and the churches should reflect more thoroughly on the seven basic responses that government can make to claims of religious liberty by an individual or an institution:

You are crazy—that is, you are *mentally ill.*

You are insincere.

You are wrong—your claim is not religious.

You are right, and the Constitution commands us to honor your claim.

You are right, but the Constitution forbids us to honor your claim.

You are right, the Constitution permits us to honor or deny your claim, and we choose to honor it.

You are right, the Constitution permits us to honor or deny your claim, and we choose to deny it.

Too often, both government and the churches succumb to a kind of knee-jerk reaction, as though the classification of an activity or organization as religious or church settled all the legal questions. The fact is that the classification is often only the beginning of a constitutional inquiry, and only rarely the conclusion of a statutory inquiry.

Congress and the federal agencies would do well to imitate the reluctance of the courts to engage in definitions of church or religion. Moreover, instead of multiplying religious terms in federal statutes and regulations, Congress and the agencies should seek religiously neutral terms whenever possible. Thus, if Congress chooses to make certain types of church or religious organizations obey the same laws as their secular counterparts, Congress should impose the same obligations on the classes of organizations (such as schools, hospitals, and homes for the aged) "whether or not they are affiliated with or part of any church, denomination or religion." In this way, Congress will not be making any determination about the proper scope of church or religious activities.

When Congress does not act in such an unambiguous way, federal agencies should report back to Congress rather than resolve the ambiguities that Congress has created. Anyone familiar with the legislative process would never suggest that federal agencies always refuse to resolve Congressional ambiguities; but churches and religious organizations are clearly in a special constitutional category. It is part of the responsibility of federal agencies not to crawl out on constitutional limbs from which Congress has declined to dangle.

The federal and state courts, and especially the Supreme Court, must also recognize that they have an indispensable part to play in the resolution of the current tensions between the government and the churches. The courts have usually and justifiably refused to define church or religion except when definition was absolutely necessary; but the courts have also indulged in a great deal of unnecessary rhetoric about the relationships between church and state, between religion and government.[26] Church leaders and lawyers who have read all the decisions are understandably concerned about the implications; so are politicians and government lawyers.

Conversation, of course, is not the solution to all problems. But it helps, especially when it is frank, candid, trusting and unafraid. If church and governmental officials will talk to each other more frequently and regularly during the eighties than they did during the sixties and seventies, many of the problems can

26. The Supreme Court itself has recognized as much. In his opinion for the Court in *Walz* v. *Tax Commission*, 397 U.S. 664, 668 (1970), Chief Justice Warren Earl Burger wrote: "The considerable internal inconsistency in the opinions of the Court derives from what, in retrospect, may have been too sweeping utterances on aspects of these [religion] clauses that seemed clear in relation to the particular cases but have limited meaning as general principles."

be resolved. The same people who vote or get elected to public office go to church, stay away from church, love, suffer, live and die. The churches and the government should remember that they are not mere abstractions, but that they are made up of, and serve, the same people.

The more church and state understand each other, the better the chance that they will fulfil their missions. Church and state, government and religion may be separate in the fields of constitutional and statutory law. They should not be schizophrenic in the lives of the people they serve and save.

Church leaders must also face the fact that if they do not come up with satisfactory statutory formulas to meet the legitimate concerns of the federal and state governments, they have no just ground for complaint when government officials go ahead and concoct formulas of their own. It is too much to expect that government will always use the phraseology that the churches prefer; but it is quite reasonable to assume that active collaboration among the churches will frequently produce statutory language acceptable to both the churches and the government.

Fortunately, that process of collaboration has recently begun, notably through the efforts of the Lutheran Council in America and with the cooperation of the National Council of Churches of Christ in the U.S.A. and the United States Catholic Conference. It will take a great deal of study, time, and effort to correct the mistakes that Congress and the federal agencies have made during the last decade.

The churches must be patient, but they must also be diligent. Much is at stake: preservation of the traditional legal recognition that the churches have a role to play, not only in the sanctuary and the home, but in every field of human endeavor, in society at large. Every legal definition that confines the churches or religion to a sphere that is smaller than the whole range of human concerns distorts the institutional separation of church and state into a functional separation. Charitable, educational, and social welfare activities have always been, and should always remain, essential concerns of both church and state.

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The Churches and Legislative Advocacy

By J. PHILIP WOGAMAN

ABSTRACT: Throughout American history, church groups have sought to influence public policy, sometimes quite successfully. Their general right to do so is respected by the courts, but indirect challenges persist on the popular level and as a by-product of tax exemption regulations and lobby disclosure legislation. In democratic political theory, this right of churches is grounded in the right of all citizens to be respected as sovereign and to exercise their sovereignty either individually or in groups. Religious freedom points in particular to the transcendence of persons as citizens above the state, and it requires opportunity for political expression. The right of church legislative advocacy is limited by respect for the rights of others and by the requirement that all public policy enactments reflect a primary secular purpose, that is, that they do not depend for their rationale upon theological beliefs peculiar to particular religious groups. Churches in fact make important public contributions through legislative advocacy and the state should encourage, not discourage, it. While the churches themselves differ on this, the broad mainstream of Judeo-Christian tradition is deeply supportive of this activity, provided it is pursued with wisdom and restraint.

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ONE OF the few safe generalizations concerning the history of church-state interaction in the United States is that there has almost never been a time when churches did not attempt to influence public policy. Sometimes they have been quite effective. Church groups and their leaders can be credited with a substantial role in the outlawing of dueling, in the antislavery movement, in the temperance movement (culminating in Prohibition), in the industrial reforms of the Progressive Era, in the drive for legal recognition of the labor movement, in the campaign to generate public and Congressional support for U.S. involvement in the United Nations after World War II, in the Civil Rights Movement, and in the movement of opposition to U.S. participation in the Vietnam War. Besides such large-scale national issues, churches and church leaders have dealt seriously and often successfully with a vast number of less noted local and national policy questions. Sometimes, as in the case of the Mormon polygamy dispute, the prohibition campaign, public aid to parochial schools, and the abortion controversy, churches have found themselves aligned against one another, and legislators have felt the heat of conflicting religious pressures.

Surveying the very large landscape of church public policy advocacy, most of us could find much that we might approve along with at least some moments of foolishness. But our present concern is less with the relative wisdom of past actions than it is with the broader questions of propriety: Ought religious groups engage in legislative advocacy? Is this consistent with our best political traditions and with the churches' own theological understanding of their mission? If so, with what guidelines or restraints?

SILENCING THE CHURCHES ON LEGISLATION

It is sometimes maintained that the U.S. Constitutional tradition of separation of church and state precludes any active political role for American churches and that the churches, as such, should keep silent on legislative matters.[1] It is beyond the scope of this article to explore the legal meaning of the First Amendment's establishment clause in detail. But we may note that the courts have never drawn the legal conclusion that that clause precludes religious groups from taking an active part in the political process. Quite the reverse, as the following declaration by the Supreme Court in 1970 suggests:

> Adherents of particular faiths and individual churches frequently take strong positions on public issues including, as this case reveals in the several briefs amici, vigorous advocacy of legal and constitutional positions. Of course, churches as much as secular bodies and private citizens have that right.[2]

Direct challenges to church lobbying or political advocacy generally come from aggrieved opponents of whatever position a religious group may take on a particular public issue. Rarely is such criticism consistent, for those who issue such challenges often welcome church advocacy when it is compatible with their own interests. It is noteworthy that even the organizations with longest-standing interest in maintaining separation of church and state (such as Ameri-

1. For purposes of this article, "legislation" and "public policy" will be used interchangeably, and it will be assumed that legislative advocacy or public policy advocacy or "lobbying" refers to efforts to influence the decisions of any of the branches of government at any level.

2. *Walz v. Tax Commission of the City of New York*, 379 U.S. 670, 90 S. Ct. 1409 (1970).

cans United for Separation of Church and State and the Baptist Joint Committee on Public Affairs) strongly support the right of religious bodies to seek to influence public policy.

Efforts to silence the churches are more often indirect and, doubtless, unintended. In recent years, for instance, the Internal Revenue Service has threatened the tax exempt status of church organizations devoting a "substantial" proportion of their time and resources to lobbying activities, and it has placed lobbying coalitions made up of church groups or including church groups along with non-church groups under severe pressure including threatened loss of the parent bodies' tax status.[3] On a different front, there have been serious legislative proposals to require detailed "lobby disclosure" reporting by groups, not excluding churches, engaged in such activities.

The practical consequence of such indirect legal challenges is to make it more difficult for churches to carry on activities designed to influence the course of public policy. Of course it is also to perpetuate, in some degree, the impression that there is something suspect about trying to influence public policy.

Moreover, there is the question how broadly the regulation of church public policy advocacy could go. It may be one thing to regulate the lobbying activities of a full-time, paid representative on Capitol Hill. It would be something else to remove the tax-exempt status of a religious journal editorializing on a public issue or to require the reporting of sermons in which congregations are urged to support or oppose a particular measure. Bearing in mind that lobbying may be defined to include a vast number of activities at the local and national level by many different kinds of ordained and lay church officials and communicants to influence public policy, where is the line to be drawn in the regulation of such activity? Even the innocent-sounding requirements of reporting may, in fact, prove devastatingly difficult for church groups with small professional staffs and little secretarial assistance.

But the real question remains whether church lobbying activity should be encouraged as a matter of public policy and, from the standpoint of the churches themselves, whether such activity is an integral part of their religious vocation as they see it. If the answer to the first part of this question is affirmative, it follows that tax policies and lobby disclosure regulations should not inadvertently inhibit such activity.

THE PERSPECTIVE OF DEMOCRATIC POLITICAL THEORY

As we noted above, the Supreme Court has already indicated that church groups have a legal right to seek to influence public policy. A few comments may help clarify why such a legal ruling is inevitable where democratic political theory is taken seriously. In a democratic society—and perhaps only in a democratic society—a distinction must be made between the person as citizen and as subject. Persons in all societies are subjects; that is, they are subject to the law, required to obey the law and subject to penalties for neglecting to do so. Citizenship, however, entails the right to participate in the process of government. In a democratic society, all are citizens as well as subjects. As citizens they own the government; they share in sovereignty, even while subject to its com-

3. See Dean M. Kelley, *Why Churches Should Not Pay Taxes* (New York: Harper and Row, 1977), pp. 70–88 for a useful summary of tax law and church legislative activity.

mands. They are entitled to participate in the selection and dismissal of officials and to seek to influence officials through petition for redress of grievances (as the Constitution quaintly puts it). At the same time, they are subject to the decisions made by those officials within constitutional bounds. They are engaged in a political covenant or compact, as the great political philosophers of 17th and 18th century England and France put it. The covenant entitles one to full participation and obligates one to abide by the legitimate outcomes.

Most civil rights are an attempt to protect the person in the citizenship role. They are, so to speak, the rights of the sovereign,[4] each citizen being a sovereign. The personhood and freedom of the citizen are to be respected except in instances where a compelling interest of the whole community intrudes; and even here there are some kinds of rights of citizenship which are virtually absolute.[5] The religious freedom of the citizen is particularly to be respected. Some thinkers, such as Emil Brunner, have regarded this as the essence and summary of all civil freedoms because religion represents the transcendent selfhood and meaning of each person's life.

There is nothing in this that either mandates or excludes political activity by groups of citizens. Indeed, the essence of totalitarianism, besides treating people altogether as subjects and never as citizens, is that it seeks to deal with them one-by-one as individuals only. Effective political life, from the citizen standpoint, requires a good deal of group activity through parties, caucuses, voluntary associations of all kinds, in what Peter Berger and others have called the mediating structures. Groups are needed to mount political purposes and to clarify their content. When religious groups engage in political activities their status is, in one sense, exactly the same as that of any other voluntary associations. They are an association of some of the citizens—that is the owners—of the state. Their freedom to think together, to conspire together, to act together with political intent, is not to be interfered with except where their acting is manifestly injurious to the similar rights of others.

To make this point very bluntly, there is nothing at all in democratic political theory that would preclude any religious group from going so far as to form a political party, although some kinds of rules may be peculiarly necessary for the governing of that kind of association which are not needed for other forms of association. That has never happened in this country in any significant way and, except in rare instances, religious groups have also refrained from supporting or opposing particular candidates for office. However, there is no reason in principle why church groups should be denied the right to function in any way they wish in the political process.

4. In a different context, Alexander Meiklejohn remarks that the people, "as rulers . . . cannot govern wisely unless they have complete access to both fact and opinion." Quoted in John Cogley, ed., *Religion in America* (New York: Meridian Books, 1958), p. 210.

5. This is definitely true of the right of every citizen to refuse to profess what he or she believes to be untrue and it is substantially true of the right of every citizen freely to express ideas. Other rights, including material economic well-being, are also important in protecting the capacity of all citizens to function as persons in the social and political community. See Philip Wogaman, *Protestant Faith and Religious Liberty* (Nashville: Abingdon Press, 1967), pp. 182–190 for a discussion of three forms of religious liberty, ranging from the absolute to the qualified.

IMPLICATIONS OF THE FIRST AMENDMENT

The freedom and establishment clauses of the First Amendment remind us, however, that religious groups are also unique. While they are voluntary associations in the sense of any other, they embody the privilege of religious freedom and they are precluded from receiving some forms of governmental aid. The religious freedom clauses would seem to undergird the rights of legislative advocacy all the more, particularly since most religious groups engaged in influencing public policy do so as an outgrowth of their religious sense of vocation. The uniqueness of the nonestablishment clause requires further comment.

That clause can be understood partly as a matter of sheer political pragmatism—what John Courtney Murray referred to as an "article of peace." In a religiously pluralistic society it is very divisive for the state to appear to favor any church or choose one over others. The religious wars of the post-reformation age (and, indeed, of the twentieth century) suggest the wisdom of such articles of peace. Moreover, from the churches' own standpoint, it may well be the case that governmental support greatly diminishes their health and integrity. Countries which directly finance churches often manifest tendencies toward Erastianism—governmental control of religious groups for essentially political ends. The establishment clause also helps protect the churches from being co-opted by the state.

But the nonestablishment clause also reflects a deeper philosophical principle: that it is not the proper business of the government to indicate formal preferences among the religious outlooks of its citizens. Religion expresses ultimate human meanings and values (or "ultimate concern," as Paul Tillich put it). It represents precisely that sphere of transcendence in human personhood which belongs to the "citizen" and not to the "subject." Each citizen is assumed to have his or her own uniqueness of ultimate being which is utterly beyond the reach of, or control, manipulation, or definition by, the state. We all act together through the state, even in spite of ourselves; but the state cannot presume to make us believe together.[6] It may seek to influence our common valuing of many things (such as the value of democratic process itself), but it cannot extend this drive toward commonality so far as to indicate for all of us the ultimate meaning of these common social values. To do so violates the ultimate point of reference defining the superiority of the citizen to the state.[7] To do so makes the state into a god.

6. The state may itself be defined as society acting as a whole, it being understood that most social activities are not activities of the state but that almost all conceivable activities are potentially politicizable in this sense. Being a part of the political system, we act with our fellow citizens when the state acts, whether we like it or not. At the level of action, we pay our taxes and do, voluntarily or otherwise, what we are required to do; but at the deeper valuing and cognitive levels of our being we remain, in principle, independent.

7. Human beings are not, of course, as individualistic as this section may seem to imply; but neither are they simply functions of a social whole. Human beings are both individual and social by nature. When one or the other of these (individual and social) poles is destroyed, authentic humanity is no longer conceivable. We should not, in fact, conceive of society and the state merely as a collection of solitary individuals banded together for convenience (which is a tendency in the thought of John Locke). Respect for the transcendent uniqueness of each individual's religious perspective is the ultimate protection of the individual side of the polarity. The disciplines of social existence, including the

Thus, the state can have no formal opinion as to the truth or rightness of the ultimate perspectives of the Protestant, the Jew, the Roman Catholic, the member of Hari Krishna, the atheist, the Muslim, or any other. All such persons are citizens; as citizens they are formally superior to the state, free to act through the state in accordance with the institutions of majority rule.[8]

FORMAL LIMITATIONS UPON LEGISLATIVE ADVOCACY

The nonestablishment and religious liberty clauses of the First Amendment do, however, present two limitations upon the political activities of religious groups (or any other groups or individuals, for that matter). They may not use the state to infringe upon the religious liberty of fellow citizens, nor may they use it to "establish" their own religious institutions in a position of formal superiority to others. The two limitations are distinct in principle, although they are often very similar in practice. When special privileges are secured for one religious group, it is usually and almost by definition an injury to other, competing groups.

Direct, obvious infringements upon religious liberty in America are rarely sought by one group against others, at least in recent years. There is, however, a kind of indirect infringement which has more often been the object of religious advocacy. That is when the members of one religious body seek to impose their religious scruples upon the rest of the population which does not share the religious perspective apart from which the action makes no sense. This is subtle and often very debatable territory. The problem may be substantially what the Supreme Court was getting at with its recent opinion that "to pass muster under the Establishment Clause the law in question first must reflect a clearly secular legislative purpose. . . ."[9] Part of the meaning of this is that citizens must not have inflicted upon them the requirement to observe restraints or to engage in actions which depend principally upon the unique theological views of other groups. And religious groups, when they go lobbying for such things, must expect to have them struck down eventually by the courts even if they are enacted into law.

Pure cases rarely occur. What makes this a tangled area for judicial review is that legislation may have a primarily religious intent while operating behind a convenient secular smokescreen. It is arguable, for instance, that sabbath laws in this country were basically prompted by theological considerations, even though a good secular case can be and has been mustered in defense of a weekly community day of rest. The prohibition case may be similar, since by the time of its enactment there were religious groups in this country for whom the consumption of even a drop of alcoholic beverage

institutionalized claims of social justice, protect the social side. Neither side can be permitted to swallow the other. See Wogaman, *A Christian Method of Moral Judgment* (Philadelphia: Westminster Press, 1976), pp. 136 ff. for more extended discussion of this polarity.

8. Majority rule itself is a recognition of the sovereign equality of all citizens. Since there is no basis for "weighting" the value or status of any citizen against any other, the larger number must be "weighted" more than the lesser. The lesser number remain empowered, however, to seek, through channels of political influence, to become the greater number in the future.

9. *Committee for Public Education v. Nyquist*, 413 U.S. 756, 773, 93 S. Ct. 2955, 2965 (1973).

had become a serious religious taboo. The secular evils associated with excessive drinking and alcoholism are palpable enough to sustain legislative purpose, but the question is whether a religious scruple had improperly been permitted to interfere with the rationally defensible desire of those not holding that scruple to be permitted to drink in moderation. (Prohibition legislation did permit the production and sale of wine for sacramental purposes. Had it not done so the case would have been even clearer.)

In any event, when the freedom of citizens is at stake, the courts may properly inquire concerning the real intent of legislation. In doing so, they consult the legislative history. If, to take a highly improbable and entirely hypothetical example, a group of fundamentalist Muslims succeeded in leveraging enough political power to pass legislation requiring all women to wear a veil, the freedom of women not sharing the religious scruple would be on the line. Certain secular rationalizations might be brought forward in defense of the legislation—that, for example, men cannot restrain themselves sufficiently when in the presence of unveiled women. But if the legislation were not preceded by clear evidence that the legislators were impressed by the manifest public dangers posed by unveiled womanhood and if the legislative history of the enactment referred rather to the prescriptions of the Qu'ran, then it would be doubtfully secular and the courts would be obliged to protect the freedom of women not wishing to wear the veils. It would not even matter by how great a majority the bill had been passed nor by how great a majority of the general populace it was supported.

This does not mean that advocacy by religious groups fatally corrupts the legislative history of enactments. If it did, then the freedom of religious groups to participate in the political process would itself have been destroyed. What it does mean is that the secular purpose, not the ultimate religious meaning, is what is decisive in the enactment of legislation.

Let us consider another important case, that of the civil rights movement. Many American churches invested themselves quite heavily in that struggle, and the legislative successes were partly dependent upon such efforts. For our purposes it is also noteworthy that there were at the time a number of religious groups holding in theological principle either that black people are inherently inferior to whites or at least that God intended the segregation of blacks from whites. (Mormons at that time understood blacks to be descended from an angelic rebellion against God and blacks were, accordingly, denied access to the Latter Day Saint priesthood. A number of southern-based Protestant fundamentalist sects opposed racial integration on the basis of their reading of certain Old Testament passages. As late as the 1940s one prominent Methodist bishop even declared that black people are "preadamic," that is not descended from Adam and therefore presumably not fully human.)

Was the definition of black people as equal to whites therefore a religiously peculiar doctrine? Quite the reverse. In determining what a "person" is, the legislature was challenged to engage its rationality and, in the process, to recognize the rationality and other human characteristics of black people. It could have arrived at the opposite conclu-

sion only by setting aside all of the obvious evidence of black people as thinking, experiencing, feeling, worshipping beings—and, along with it, all of the evidence that the alleged social inferiority of black people was rooted in centuries of oppression and neglect—substituting for this rational evidence the prejudices based upon skin color. Church groups supporting civil rights brought theological considerations to bear on the issue, but underlying all of their theological appeals was a solidly secular finding of fact and legislative purpose.

From the standpoint of democratic theory, it is arguable that religious groups render particularly important service to the political process, so long as the secular purpose test is observed. While such groups are not always above the taint of self-interest, their legislative objectives are very often if not typically founded in conceptions of the public good. Their participation may help remind all citizens of the important claims of neglected groups and of the community as a whole. At their best, they have been what the World Council of Churches challenged its members to be: ". . . in every place a voice for those who have no voice." Even at their worst, they have rarely been vehicles for naked self-interest, greed, and group prejudice. Observing with Reinhold Niebuhr that "man's inclination to injustice makes democracy necessary," they can help nurture the human capacity for justice which, he also said, "makes democracy possible."

Thus, the overall attitude of society toward legislative advocacy by the churches ought to be more than permissive and tolerant; it ought to be very affirmative of the contributions this makes to political process in a free society. It follows that special efforts should be made to assure that tax regulations and lobby disclosure laws and the like should not unwittingly harrass or intimidate religious groups seeking to influence public policy.

THE CHURCHES' SELF-UNDERSTANDING

It is another question whether churches have internal reasons of their own for wishing to make this kind of contribution. Broadly speaking, some do and some don't, depending upon theological and historical considerations. The more sectarian groups which emphasize personal commitment in a basically fallen, evil world or which live in the expectation of divine intervention to bring in the Kingdom of God, have tended to avoid political entanglements except in defense against persecution and sometimes not even then. The refusal by Jehovah's Witnesses even to vote represents an extreme version of this position. The more "church-type" groups[10] accept a more active role in seeking to transform human culture. A whole range of behaviors can result from this stance, from the explicit effort to elect or defeat candidates for office to the broader, more indirect efforts to shape the ethos of an age and to transform the lives of individual communicants in the hope that they will be active politically as individuals.

Within the Judeo-Christian faith traditions, there are very strong theological reasons for churches and

10. The classic analyses of different typical attitudes of religious groups toward society and the political process are Ernst Troeltsch, *The Social Teaching of the Christian Churches*, tran., Olive Wyon (New York: Macmillan, 1931 [1911] and H. Richard Niebuhr, *Christ and Culture* (New York: Harper and Row, 1951).

Hebrew congregations to play a fairly active political role. The Old Testament tradition, shared in common by Jews and Christians, is loaded with political criticism and activism. Some recent theologians have not been too wide of the mark in characterizing this essentially as a political tradition and in referring to theology as "political theology." God is portrayed as being in covenant with a political people, Israel, and as having political purposes for that people. The great prophets rose from time to time to summon the people to a higher, more sensitive and just understanding of those divine political purposes and to criticize the people for their failure to keep faith with God's intent. Elijah, Nathan, Amos, Hosea, Micah, Isaiah, Jeremiah, and others dealt with politics. Moses, Joshua, Deborah, Samuel, Josiah, and others were political leaders, noted for their general faithfulness to God's purposes.

The New Testament presents Christians with a somewhat different setting, since the early Christians did not have political responsibilities and opportunities of the same kind. But it is clear that Jesus and the apostolic writers of the New Testament shared and presupposed the active, covenantal conception of God inherited through Hebrew tradition. If anything, the New Testament theological tradition deepens and sharpens for Christians the imperative of giving effect, with their lives, to God's loving purposes for humanity. The state must be the arena for much of this. Indeed, were there no state, Christians should wish to invent one. Christian theology through the centuries has generally resisted every tendency to spiritualize the gospel out of this world, beginning with the early struggles against Docetism.

God's purposes and human responses are not merely "spiritual"; there is an intense drive toward actualization of spirit in the world of matter, structures, and institutions. God's purposes are not understood to be confined to this world, but neither are they exclusively above or beyond what can be seen and felt and heard. Wherever there is a basic contradiction between God's spiritual realm of goodness and the realm of temporal existence, Christians experience a powerful impulse toward overcoming the tension by reordering existence. The state is the most central arena for this, because the state is the realm of society acting as a whole. It is central to the unfolding of broad, historical purposes. Christians could, in their own terms, scarcely ignore the state without abdicating their deepest theological convictions.

An interesting question must then be raised: Do Christians and Jews have internal theological reasons for supporting the "secular legislative purpose" test which was portrayed above as being commanded by democratic political theory?

Clearly, not all Christians and Jews would give the same answer to that question! Christian proponents of a Christian amendment to the U.S. Constitution proclaiming this as a Christian nation and Christian proponents of prayer in the public schools are obviously not very interested in political secularity. Sometimes such Christians erroneously but vigorously reduce the Constitutional options to an establishment of Christianity on the one hand or an establishment of a new religion of secularism on the other. Similarly, those Jews who wish to encourage the state of Israel to be an explicitly Jewish state, in the religious sense, are not much interested in the secularity of legislative pur-

poses. Worldwide, in fact, a wave of religious purpose legislation has swept through a number of Muslim, Buddhist, and Marxist lands (the latter reflecting an establishment of orthodox Marxism as a prescribed way of believing and valuing).

But, theologically debatable as this may be, it is arguable that the profoundest understandings of Christian or Jewish faith are very supportive of the secular purpose test. On one level, that test can be seen as required in respect to the uniqueness and integrity of every person, whether or not Christian or Jewish. People ought not to be compelled to observe scruples which are, to them, purely speculative in origin. Respect for persons entails refraining from use of governmental coercion except when necessary for social purposes which can be justified in clear, rational terms.

On another level, Christians and Jews may well have a very high sensitivity to their own fallibility and great respect for the possibility that God may have relationships with, and purposes for, other participants in the political process, and thus to have theologically principled reasons for not wishing to impose their own uniquely perceived scruples upon their fellow citizens. It is because such Christians and Jews believe in the sovereignty of God that they are unwilling to grant exclusive sovereignty to any persons or groups to the exclusion of other citizens, no matter how persuasively some may argue that they alone are God's chosen instruments.

THE DEMAND FOR WISDOM AND RESTRAINT

On the level of actual practice, Christians and Jews should show the wisdom and restraint (and sense of urgency) demanded by a profoundly theological conception of their political vocation. Aside from the secular purpose provision, there are few forms of political advocacy that can either be prescribed or prohibited in general principle. But there are sound practical reasons for church groups to be slow to support or oppose actual candidates for office. Such explicit involvement in elective politics is usually unwise, partly because it often arouses resentments, partly because it leads closer to the corruption of religious institutions by the self-interest aspects of political process (and by the exercises of power), and partly because it is a good deal easier to assess problems and issues, complicated though they be, than it is to judge the human dimensions. Sometimes politicians who appear morally bad surprise us with their unexpected bigness of character and the wisdom of their perspective; sometimes politicians of supposedly impeccable character surprise us with disappointing tendencies toward corruption.[11]

It is also true that the larger impact of churches may well be through their overall influence upon the spirit of the times. Through their preaching and moral teaching, certain values may be emphasized and limitations imposed which have the effect of helping to define the broader purposes of an era and, within the circle of church groups themselves, of exploring the ultimate meaning of political problems.

11. As a historical footnote on the latter kind of surprise, it is interesting that when a number of church groups and church leaders of the state of Maryland concluded in 1966 that one of the candidates for governor was unthinkably racist, they set aside the usual inhibitions about church support for politicians by lining up behind his opponent, a fairly obscure and apparently strait-laced and uncorruptible politician named Spiro T. Agnew.

This does not mean that churches must deal only in generalities. The spirit of the times always comes packaged in specific instances; and it is in the way in which the specifics of political process are related to broad values and purposes that the ethos is affected. The point is, however, that the overall pattern of a church's teaching, preaching, and pastoral relationships to a constituency and environment may have deeper, more long lasting effect upon political outcomes than any specific lobbying with governmental officials.

Still, both are needed. Direct advocacy lobbying, letter writing, and other highly specific actions help give validation and point to the broader role of the churches and, at the same time, often serve as an important conduit of information back into the churches. And the broader ministries of the churches are the bedrock out of which the churches can do specific political advocacy with integrity.

The overall quality of church participation in American politics has been high enough that churches owe no apology to any other interest group or party, despite all of the churches' failings. But failures of judgment and will have also been plentiful enough to remind us that piety is no substitute for disciplined investigation of the problems the churches think worthy of political attention.

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Religion and Education: A Continuing Dilemma

By JAMES E. WOOD, JR.

ABSTRACT: No questions have provoked as much discussion or prompted as much litigation during the past three decades in church-state relations as the role of religion in the public schools and the use of public funds for religious schools. The issues raised by these two questions constitute a continuing dilemma in religion and education in America. This essay reviews religion and education in the context of U.S. church-state relations and several decades of judicial interpretations based on the Establishment Clause of the First Amendment. The most serious proposal for securing public funds for religious schools now being advanced is tuition tax-credit legislation, the outcome of which is by no means certain. Even here, however, the eligibility for such funds may require that church schools maintain an essentially secular character and thereby lose their religious identity and church-relatedness.

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QUESTIONS concerning the use of public funds for nonpublic schools and the role of religion in public schools have been critical issues in U.S. church-state relations. During the past thirty years no other church-state issues have provoked as much litigation. Approximately three decades ago, within the period of a year, the U.S. Supreme Court handed down two landmark church-state decisions; one respecting public funds and nonpublic schools, *Everson* v. *Board of Education* (1947); and the other, religion in the public schools, *McCollum* v. *Board of Education* (1948). The issues addressed by the Court in these decisions are indissolubly and inevitably linked in American church-state relations. In large measure, in the years which have followed, religion and education have constituted the primary basis upon which the Establishment Clause of the First Amendment has been adjudicated.

Religion and education form a continuing dilemma in American church-state relations. On the one hand, the role of religion in public schools has been adjudicated on the basis that public schools are necessarily subject to public control and public policy by virtue of the fact that they are tax supported and, therefore, must be governed by the Establishment Clause of the First Amendment even if a given program of religion is maintained on a "voluntary" basis. On the other hand, the use of public funds for religious schools has been repeatedly ruled as violative of the Establishment Clause since the use of such funds constitutes aid to religion and results in the entanglement of the institutions of church and state in a program of education. That the Court's most far-reaching decisions on church and state should have to do with the public schools has been noted as both historically appropriate and judicially significant.

THE RISE OF THE PUBLIC SCHOOL

The American public school is as historically unique as the American tradition of church and state. Together they represent two distinct contributions of the United States to the world. Founded as a secular state, the United States was the first nation in history constitutionally to prohibit the establishment of religion and to guarantee the free exercise of religion. While this view of church and state has been frequently referred to as the greatest single concept America has contributed to civilization, the public school has been called by many the supreme achievement of American democracy.

"The origin of public education in the United States not merely antedates separation of Church and State," as Leo Pfeffer perceptively observed, "to a considerable extent, it owes its very existence to the fact that it antedated separation."[1] For the fact is that in education, as in church-state relations, the European pattern prevailed in colonial America. Here the first schools were avowedly religious, not secular. America's first education laws, enacted in Massachusetts in 1642 and 1647, explicitly acknowledged that common schools were to be organized to teach children "to read and understand the principles of religion and the capital laws of this country" and to frustrate the designs of "ye ould deluder, Satan, to keepe men from the knowledge of ye Scriptures."[2] Connecticut in 1650 simi-

1. Leo Pfeffer, "Religion, Education and the Constitution," *Lawyers Guild Review* 8 (May-June 1948):387.

2. See Donald E. Boles, *The Bible, Religion, and the Public Schools* (Ames, IA: Iowa State University Press, 1963), p. 6.

larly expressed the religious purpose of education. Not only New England colonies but also Southern colonies emphasized the central role of religion in education. As late as 1766, for example, the constitution of North Carolina affirmed "the great necessity of having a proper school of learning established whereby the rising generation may be brought up and instructed in the principles of the Christian religion."

As the pattern of the state church gave way to disestablishment and pluralism in the New World, so the free, secular public school gradually emerged and in time supplanted the sectarian school which dominated during the colonial era and the early decades of the new Republic. With the growth of experimental science, international trade, and religious diversity of the population, the religious character of America's schools was increasingly a source of conflict and consequently resulted in an increased demand for secular subjects without ecclesiastical or sectarian control.

Developments in the Commonwealth of Virginia in the latter part of the eighteenth century marked a turning point in the course of America—both in church-state relations and in the emergence of a non-sectarian public school system. Under the leadership of Thomas Jefferson, Virginia disestablished the Anglican Church and laid the foundation for church-state separation. Having disestablished the Anglican Church in 1779, the state legislature in 1786 passed a "Statute of Religious Liberty" which declared "that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinfull and tyrannical; that even forcing him to support this or that teacher of his own religious persuasion, is depriving him of [his] liberty."[3]

It was Jefferson also who first conceived of public schools, free and tax-supported, as the basis of an informed, democratic citizenry. According to Jefferson, these public schools were not necessarily to replace private schools, but to provide free education for all. In his *Report of the Revisors of Virginia, 1770,* Jefferson proposed that at each of the public schools "shall be taught reading, writing, and common arithmetic, and the books which shall be used therein for instructing the children to read shall be such as will at the same time make them acquainted with Graecian, Roman, English, and American history. At these schools all the children, male and female . . . shall be entitled to receive tuition gratis." In 1817 Jefferson specifically advocated that free common schools be non-sectarian, in advocating that "no religious reading, instruction or exercise, shall be prescribed or practiced inconsistent with the tenets of any religious sect or denomination." Jefferson's opposition to state support of religion in education extended even to the College of William and Mary and the University of Virginia, because he thought it proper "to leave every sect to provide, as they think fittest, the means of further instruction in their own peculiar tenets."[4]

By the 1830s Jefferson's concept of non-sectarian public schools began to take root in one state after another. Horace Mann exerted particular influence on the state legislatures to pass laws prohibiting all sectarian

3. For a reprinting of the full text of this document, see Anson Phelps Stokes and Leo Pfeffer, *Church and State in the United States* (New York: Harper, 1964), pp. 69–71.

4. Roy J. Honeywell, *The Educational Work of Thomas Jefferson* (Cambridge, MA: Harvard University Press, 1931), p. 24, *passim*.

practices, including the use of sectarian textbooks, in tax supported schools. It is interesting to note that Mann's first speech after his election to the Massachusetts Assembly was on religious liberty. Mann contended for the free public school, tax supported and without sectarian control, on the principle of religious liberty and the separation of church and state. In his Final Report to the Massachusetts State Board of Education in 1848, he wrote, "If a man is taxed to support a school where religious doctrines are inculcated which he believes to be false, and which he believes that God condemns, then he is excluded from the school by divine law, at the same time that he is compelled to support it by the human law. This is a double wrong."[5]

Meanwhile, sectarian influences and teachings in the public schools compelled some, especially Catholics, to emphasize parochial schools to escape sectarian teachings in conflict with their own. Bible readings and prayer recitations were in most instances a Protestant-sponsored practice, more easily maintained by Protestants in view of their numerical superiority over other religious groups, specifically Catholics and Jews.[6]

During the first half of the nineteenth century, bitter conflict resulted over rival claims of Baptists, Methodists, Presbyterians, and Catholics, among others, for tax support of educational and welfare institutions. Public support of some, while denying or terminating support to others, served to sharpen the issue of the great difficulty, if not impossibility, of supporting sectarian institutions in a secular state. Protestants vigorously objected to tax support of Catholic institutions, and Catholics were strongly opposed to the broadly Protestant influences on the tax-supported public school.[7]

In the 1880s and 1890s waves of immigrants, particularly from southern, eastern, and southeastern Europe, greatly increased the multifaith character of American society by bringing to the nation increasingly large numbers of Roman Catholics, Eastern Orthodox, and Jews. These immigrant groups, as they integrated into American life, understandably challenged any form of Protestant establishment, especially when manifested in public schools. There was now less and less of a religious consensus to give support to either religious instruction or religious exercises in the public school. Thus the states led the way in the separation of church and state in the public school and the denial of public funds to parochial schools.

In 1818, Connecticut, the first state specifically to outlaw the use of public funds for church schools, set the pattern for the constitutions of the states. By the 1870s most state constitutions expressly prohibited the use of public funds for church schools. Finally, in every state without exception it became unlawful to grant tax-raised funds for their support. With the exception of Massachusetts, no statutory authorization for Bible reading

5. Quoted in Anson Phelps Stokes, *Church and State in the United States* (New York: Harper, 1950), 2:57.

6. There has been a marked tendency among Protestants in many regions of the country to view the public school as basically a Protestant institution. Consequently, the Protestant presence in the public schools frequently precipitated Roman Catholic demand for public funds for the operation of their own parochial schools.

7. Riots and lawsuits during the nineteenth century over Bible reading and prayer recitation in the public schools attest to the bitterness engendered over the role of religion in the public schools. Disagreement frequently erupted over which version of the Bible should be read in the public schools, if indeed it was to be read at all.

in the public school appeared until 1913, when Pennsylvania passed the first law requiring Bible reading in the public schools.[8] "Few verdicts of history," Murray A. Gordon has declared, "are clearer than the purposeful determination of the states to bar the church from public schools and the church schools from public funds."[9] With the new high watermark of the separation of church and state reached in the waning years of the nineteenth century, the distinctly secular character of the public schools was substantially strengthened.

RELIGION AND PUBLIC EDUCATION

Since, as Justice Felix Frankfurter declared in *McCollum* a little more than thirty years ago, "The public school is at once the symbol of our democracy and the most pervasive means for promoting our common destiny,"[10] the status of religion in the public schools has come to be regarded as a crucial test of America's being a free and pluralistic society. The fact is, however, that the Supreme Court has rendered but four decisions involving religion and the public schools, and all four of them have been handed down since 1948: *McCollum* v. *Board of Education* (1948), *Zorach* v. *Clausen* (1952), *Engel* v. *Vitale* (1962), and *Abington School District* v. *Schempp* (1963).[11]

8. See Robert F. Drinan, S.J., *Religion, the Courts, and Public Policy* (New York: McGraw-Hill, 1963), p. 91; and Alvin W. Johnson and Frank H. Yost, *Separation of Church and State in the United States* (Minneapolis: University of Minnesota Press, 1948).

9. Murray A. Gordon, "The Unconstitutionality of Public Aid to Parochial Schools," *The Wall Between Church and State*, ed. Dallin H. Oaks (Chicago: University of Chicago Press, 1963), p. 79.

10. *McCollum* v. *Board of Education*, 333 U.S. 203 (1948) at 231.

11. Ibid.; *Zorach* v. *Clausen*, 343 U.S. 306 (1952); *Engel* v. *Vitale*, 370 U.S. 421 (1962); and *Abington School District* v. *Schempp*, 374 U.S. 203 (1963).

As indicated above, by the 1870s most state constitutions expressly divorced religion from the public educational system, and state courts widely espoused church-state separation for the public school. Meanwhile, phenomenal gains in church memberships in the first half of this century, accompanied by renewed demands for Bible reading and school prayers, accounted in no small way for the waning of church-state separation in the public schools. The first released-time program of religious instruction in the public schools was begun in 1913 in Gary, Indiana. The percentage of church membership to population more than tripled in the nineteenth century, and rose from thirty-five percent of the total population in 1900 to slightly more than fifty percent in 1940. By the time of the *McCollum* decision of 1948 all but two of the fifty states had released-time programs.[12] Fifteen years later, at the time of the Supreme Court's decision on Bible reading and prescribed prayers, church membership in the United States had climbed to more than sixty-three percent of the total population.

In the *McCollum* case, the Court declared by a vote of 8 to 1 that "released time," that is, setting aside a portion of each day for religious instruction by representatives of various faiths, is unconstitutional even though attendance in these classes might be on a purely voluntary basis. The Court explicitly rejected the argument that the First Amendment only meant nonpreferential treatment of one religion over another. "For the First Amendment rests

12. See Stokes, 2:525–535; except for a statute passed in Massachusetts in 1826 requiring Bible reading, no state enacted similar legislation until 1913 when Pennsylvania passed the first law ordering the reading of the Bible in Pennsylvania public schools; see Drinan, pp. 91ff.

upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere. Or, as we said in the *Everson* case, the First Amendment has erected a wall between Church and State which must be kept high and impregnable."[13] The decision was clearly a controversial one.

Four years later the Court in *Zorach* v. *Clausen*, by a 6 to 3 vote, declared constitutional the practice of "dismissed time," which was essentially the same program of religious instruction considered in the *McCollum* case except that the program was maintained off the public school's grounds. Once again, the Court affirmed that the First Amendment means the separation of church and state, of which "there cannot be the slightest doubt." "Government may not finance religious groups nor undertake religious instruction nor blend secular and sectarian education nor use secular institutions to force one or some religion on any person."[14]

In 1962 the Court ruled in *Engel* v. *Vitale*, by a vote of 6 to 1, that the state-sponsored prayer program of the public schools of New York state was unconstitutional. In effect, the Court said that whether such a prayer program is nondenominational, or optional, or involves the use of tax funds, is immaterial. Prayer is a religious act and therefore cannot be sponsored by the state without violating the establishment clause of the First Amendment. As in *McCollum*, the Court disclaimed that its decision was in any way to be interpreted as one of government hostility to religion. "It is neither sacreligious nor anti-religious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers. . . ."[15]

The following year the Court was inevitably faced with the widespread practice of Bible reading exercises in the public schools. Again by an almost unanimous vote, 8 to 1, the Court ruled in *Abington School District* v. *Schempp* that the practice of devotional Bible reading and the recitation of the Lord's Prayer is unconstitutional. Once again the Court rejected "unequivocally" the reasoning that the establishment clause forbids "only governmental preference of one religion over another," but that the First Amendment means nothing less than the separation of church and state.[16] Quoting the *Everson* decision of 1947, the Court affirmed, "The [First] Amendment's purpose was not to strike merely at the official establishment of a single . . . religion. . . . It was to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion."[17]

Also, once again the Court affirmed that the decision outlawing religious exercises in the public school is not a manifestation of a hostility to religion, nor does it mean establishing a "religion of secularism." Neither the study of the Bible nor the study of religion, when made the object of academic inquiry and "presented objectively," is necessarily in conflict with this decision or the First Amendment. Rather, devotional Bible reading and prayer recitation "are religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutral-

13. *Everson* v. *Board of Education*, 330 U.S. 1 (1947) at 212.

14. *Zorach* v. *Clausen*, 343 U.S. at 314.

15. *Engel* v. *Vitale*, 370 U.S. at 435.

16. *Abington* v. *Schempp*, 374 U.S. at 216.

17. *Abington* v. *Schempp*, 374 U.S. at 217.

ity, neither aiding nor opposing religion."[18]

Although somewhat less vigorous than the opposition to the *Engel* decision the year before, reaction against the *Schempp* decision was, in many quarters, one of strong protest and even bitter resentment.[19] Firm support was given both of the Court's decisions by the National Council of Churches, the Baptist Joint Committee on Public Affairs, and most Jewish groups, while opposition was voiced by the U.S. Roman Catholic bishops, the Greek Orthodox Church, the National Association of Evangelicals, and many prominent Protestant ministers, including such theologically diverse leaders as the late Bishop James A. Pike and Evangelist Billy Graham. Numerous polls have continued to show widespread public sentiment strongly in favor of public school sponsored Bible reading and prayer. After more than a decade and a half since these two landmark decisions, many Americans still fail to understand the limits or the reasoning of the Court's decisions.

Almost two hundred proposals have been introduced in Congress in the form of constitutional amendments which would, in effect, rescind the *Engel* and *Schempp* decisions. During the 1960s the most serious efforts to accomplish this were led first by Congressman Frank Becker of New York and later by Senator Everett Dirksen of Illinois, both of whom found to their dismay that the strongest opposition to their proposals came from organized religion, namely Protestants and Jews, while Roman Catholicism maintained an unsympathetic neutrality. Both the "Becker Amendment" and the "Dirksen Amendment" were designed "to permit voluntary participation in prayer in public schools," although this was later broadened, as in the Dirksen Amendment, to include "any public building." A prayer amendment reached the floor of the House on November 8, 1971, but was narrowly defeated, failing by 28 votes to receive the two-thirds majority required. More recent efforts in the 96th Congress led by Senator Jesse Helms of North Carolina, have been directed toward limiting by congressional statute the U.S. Supreme Court and all federal district courts from hearing cases involving "voluntary prayers in the public schools and public buildings."[20]

One of the real ironies of all of the proposed legislation aimed at overturning the *Engel* and *Schempp* decisions is that each proposal purports to restore that which was never taken away by the Court—voluntary prayer in the public schools. The premise

18. *Abington* v. *Schempp*, 374 U.S. at 225.

19. Several months after the Schempp decision in 1963, a Gallup poll indicated that 70 percent of the people of the United States disapproved of the decision and only 24 percent approved (see *U.S. News and World Report*, September 9, 1963). Four years later a poll of 20,000 members of the *Good Housekeeping* Consumer Panel overwhelmingly favored school prayers (82 percent) and Bible reading (62 percent) and opposed the Court's decisions on Bible reading and prayer. In addition to widespread non-compliance with the Court's decisions, there have been numerous instances of outright defiance. See R. H. Dierenfield, "The Impact of the Supreme Court's Decisions on Religion in Public Schools," *Religious Education* 22 (January-February 1967):445–451.

20. On April 5, 1979 Helms' unprinted amendment which would limit the jurisdiction of the Supreme Court in considering cases related to voluntary prayer in public schools was attached by the Senate to S. 210, the Department of Education Organization Act of 1979. On April 9, 1979 the identical amendment was attached to S. 450, the Supreme Court Jurisdictional Act of 1979; then the Senate in effect stripped the amendment from the Department of Education Act. S. 450 is expected to go nowhere even though it was adopted by the Senate because it is not expected to get out of committee in the House.

is a false one since the Court never ruled against voluntary prayer in the public schools. Rather, the Court declared as unconstitutional public school sponsored prayers as an imposition of the authority of the state over religion and, therefore, in violation of both the free exercise of religion and the separation of church and state. Such proposals are, therefore, unnecessary since the Court has never denied or challenged the principle of voluntary prayer in public schools or in public buildings. No pupil and no teacher or administrator is forbidden to pray privately in the public schools as an individual. What is forbidden is state sponsored prayers in the public schools since this would mean state sponsored religion and the intrusion of government into religious affairs, which is forbidden.

In the meantime, there is no place in American life where the Establishment Clause should be more clearly manifest than in America's public schools. Since the Constitution ultimately means what the Court says it means, the public schools have a solemn obligation not only to teach the Constitution, but also to uphold it by precept and practice. Such a stance would add immeasurably to the teaching of the meaning and significance of the First Amendment in the public schools. Furthermore, the highly pluralistic character of the enrollment of the public schools reenforces the rightness and wisdom of the Court's decisions based upon the Constitution. The great majority of American children—Catholic, Protestant, and Jewish, not to mention innumerable representatives of other faiths—are to be found in the public schools, while one-third of the population is without any religious affiliation. At the same time, there is no core of beliefs and practices common to all religions. This was clearly evident in the claim that the New York Regents' prayer was non-sectarian, for prayer itself is sectarian. Even the phrase "Almighty God" is not shared by all religions, and the children enrolled in the public schools are not all identified with the religious community. As George Santayana observed, one cannot be religious without being religious in a particular tradition.

While the Supreme Court has ruled out state-sponsored prayer and Bible reading in the public schools (*Engel* and *Schempp*), and has denied the constitutionality of providing religious education in the public schools (*McCollum*), the Court has explicitly disclaimed that it has ruled out the study of the Bible or religion from the curriculum of the public schools, so long as the Bible or religion is made the object of academic inquiry and not an object of faith or worship. In essence the Court affirmed the principle, in the words of Niels Nielson, Jr., that "the public school is not a place for worship but for learning!"[21] Still to be adjudicated by the Supreme Court are many other religious practices in the public school: for example, Christmas and joint interfaith celebrations, baccalaureate services, and chapel exercises, all of which are widespread in the public schools.

Since 1948, the Court has been quite explicit in emphasizing that teaching about religion is an integral part of secular education. As Justice Robert H. Jackson wrote in the *McCollum* case: "Nearly everything in our culture worth transmitting, everything which gives meaning to life, is saturated with the religious influences derived from paganism, Judaism, Christianity—both Catholic and Protestant—and other faiths accepted by a large part of the world's

21. Niels C. Nielsen, Jr., *God in Education: A New Opportunity for American Schools* (New York: Sheed and Ward, 1966), p. 4.

peoples."[22] While embracing the concept of the secular state as rooted in the Constitution, the Court has categorically denied that the state is thereby committed to secularism. As Justice William O. Douglas wrote in his opinion in the *Zorach* case, "We are a religious people whose institutions presuppose a Supreme Being."[23] Later in *Schempp*, the Court, while outlawing public school sponsored Bible reading and prayer, declared that the state "may not establish a 'religion of secularism' in the sense of affirmatively opposing or showing hostility to religion. . . ."[24] Rather, the Court stated through Justice Tom C. Clark that "it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment."[25]

Support for religion studies in the public schools has come from various educators, professional organizations, and religious denominations. More than a decade ago, the Commission on Religion in the Public Schools of the American Association of School Administrators declared that "the public school curriculum must give suitable attention to the religious influences in man's development." Religion, "as an integral part of man's culture," the Commission said, "must be included" in the public school curriculum.[26] While the integration of religion studies in public education has been undertaken on only a limited scale nationwide, significant beginnings have been made. Special university programs addressed to the implementation of such studies have been launched, such as the Religion and Social Studies Project of Florida State University, the Indiana University Summer Institute Program on Teaching the Bible in Secondary English, and the Public Education Religion Studies Center (PERSC) of Wright State University, among others. Since 1971, the National Council on Religion and Public Education has sought to "provide a forum and means for cooperation among organizations and institutions concerned with those ways of studying religion which are educationally appropriate and constitutionally acceptable to a secular program of public education."[27] Its more than forty constituent members include the American Association of School Administrators, the National Council of Churches, the U.S. Catholic Conference, the National Conference of Christians and Jews, and the Baptist Joint Committee on Public Affairs.

Admittedly, there are still many serious problems facing religious studies in the public schools, such as widespread public indifference, fears of controversy on the part of public officials, an already crowded public school curriculum, and the lack of trained teachers and teacher education programs to carry out plans of religion studies even within the existing curriculum of the public schools. Nonetheless, the times increasingly require that full recogni-

22. *McCollum* v. *Board of Education*, 333 U.S. 203 at 236.
23. *Zorach* v. *Clausen*, 343 U.S. at 313.
24. *Abington* v. *Schempp*, 374 U.S. at 225.
25. *Abington* v. *Schempp*, 374 U.S. at 225.
26. American Association of School Administrators, *Religion in the Public Schools* (New York: Harper and Row, 1965), pp. 55–57.
27. *National Council on Religion and Public Education* (Pamphlet).

tion be given to the rationale for the academic study of religion in the public schools, preferably within the existing curriculum, as essential to the integrity of public education. Simply stated, one's education at the secondary level is not complete without the study of religion. Religion has been and remains an integral part of the history and life of humanity. Consequently, the purely secular view of education, which ignores the role of religion in the life of humanity, must come to be viewed as neither academically tenable nor historically defensible no matter what one's personal religious beliefs may or may not be.

PUBLIC FUNDS AND RELIGIOUS SCHOOLS

As observed earlier, opposition to public funds for church schools, or schools under ecclesiastical or religious control, dates from the earliest days of the Republic. In Virginia, James Madison and Thomas Jefferson opposed any attempts to secure state funds for church schools. It was Madison's resistance in 1784 to a "Bill Establishing a Provision for Teachers of the Christian Religion" which provoked his "Memorial and Remonstrance Against Religious Assessments," generally acknowledged as one of the great documents in the history of religious liberty, in which Madison presented fifteen arguments against the assessment bill. While education in America remained primarily under ecclesiastical control up to the middle of the nineteenth century, tax support of public schools, controlled by the state, gradually brought the withdrawal of state support of sectarian schools.

Discrimination against parochial schools in the distribution of public funds resulted in bitter conflicts which, along with threats of assimilation and concern for Protestant influences on the public schools, substantially contributed to the demand for the creation of a Roman Catholic parochial school system. A notable case arose in New York during the 1840s. Having sharply criticized the public school system for its failure to meet the needs of Catholic children, Bishop John Hughes sought public funds for a Catholic parochial school system. On April 11, 1842, the New York state legislature passed an act expressly forbidding public funds to religious schools.[28] Unable to secure public funds for parochial schools, Hughes became the leading advocate and spokesman for the Catholic parochial school system during the middle of the nineteenth century.

In spite of the eventual denial of public funds to church schools by all states, an extensive system of Roman Catholic parochial schools emerged. As a result, the Catholic parochial school system in some quarters came under attack as a threat to the state controlled and state supported public school system. In response to an Oregon state law which, in effect, would have outlawed all nonpublic schools, the U.S. Supreme Court in 1925, in *Pierce* v. *Society of Sisters*, ruled that the right to maintain and attend a church or private school is constitutionally guaranteed.[29] The Court based its decision on the Fourteenth Amendment, under the Due Process Clause, not the Free Exercise Clause of the First Amendment, which had not yet been declared applicable to the states.

Litigation involving direct state or federal aid to parochial schools is, with rare exception, of recent origin.

28. See Leo Pfeffer, *Church, State, and Freedom* (Boston: Beacon Press, 1967), pp. 530–533.

29. *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925).

While serious efforts have been made to incorporate parochial schools into public school systems, such efforts have met with only limited success primarily because the courts have generally found such a measure for financing of parochial schools to be in conflict with the prohibitions of state constitutions. In 1947, in *Everson* v. *Board of Education*, the U.S. Supreme Court for the first time had occasion to review the question of public funds and parochial schools in the light of the Establishment Clause of the First Amendment. In a 5 to 4 decision, the Court upheld a New Jersey law providing for bus transportation of pupils in parochial schools. While the *Everson* decision was interpreted by many as an opening wedge for the use of public funds for church schools, the language of the decision itself left no doubt that the Court regarded any direct aid to religious schools as clearly unconstitutional. In its first attempt to define the Establishment Clause, the Court declared:

> The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. . . . No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between Church and State."[30]

30. *Everson* v. *Board of Education*, 330 U.S. at 15, 16. This paragraph was repeated in subsequent decisions, one of them unanimous: *Torcaso* v. *Watkins*, 367 U.S. 488 (1961) at 492, 493.

Since the *Everson* case the battle over public funds for church schools has reached unprecedented proportions, aided in part by the fact that there have been substantially increased public funds available, both state and federal, for a variety of educational programs and institutions and by the fact that the costs of private education have skyrocketed. Federal aid to education became a serious issue only after World War II. Although not the first such bill to be introduced, the Barden bill for federal aid to education passed the Senate in 1949 but never reached the floor of the House as a result of the controversy which ensued from the bill's exclusion of church schools from either direct or indirect federal aid.

With the launching of Sputnik by the Soviet Union in 1957, a new stimulus was given for a massive federal program of education, which resulted in the National Defense Education Act (NDEA) of 1958. The Act provided low-interest, ten-year loans to nonpublic elementary and secondary schools for equipment needed for the teaching of science, mathematics, and modern foreign languages. By 1965, through the Elementary and Secondary Education Act (ESEA), funding was provided for disadvantaged youth, whether enrolled in public or nonpublic schools, through special educational programs (Title I), the acquisition of library resources and instructional materials (Title II), and supplementary educational services (Title III).[31] According to the Office of

31. In addition, since World War II numerous programs of federal assistance have been made available to nonpublic schools, e.g., National School Lunch Act of 1949, Agricultural Act of 1949, Federal Property and Administration Services Act of 1949, Agricultural Act of 1949, National Science Foundation Act of 1950, Economic Opportunity Act of 1964, Higher Education Act of 1965, Child

Education, hundreds of millions of dollars in federal funds have gone to parochial and private schools since the Elementary and Secondary Education Act and the Higher Education Act of 1965.[32]

Further encouragement for the use of public funds for religious schools came in the U.S. Supreme Court's split decision of 1968, *Board of Education* v. *Allen*, in which the Court upheld a New York statute providing state-approved textbooks for nonpublic schools.[33] In doing so, the Court upheld the notion of the "child-benefit theory" (the sole beneficiaries of the practice were to be the school children and the state, not the schools themselves) as articulated by the Court forty years earlier in *Cochran* v. *Board of Education*, which upheld a Louisiana law similarly authorizing the purchase of state-approved textbooks for children in nonpublic schools.[34] In the *Cochran* case, however, the decision was based on the Due Process Clause of the Fourteenth Amendment, while *Allen* was decided on the basis of the Establishment Clause. In any event, the Court's sanctioning of the child-benefit theory raised far more questions than it answered. Could not virtually all forms of tax aid to religious schools, including buildings, equipment, and secular subjects (with the sole exclusion of religious devotions and religious education) not be justified for the benefit of the children in parochial schools? Those who found considerable encouragement for tax aid to religious schools as a result of federal legislation on education enacted in the 1960s and the *Allen* decision of 1968, were to be faced during the 1970s with repeated rulings of the Supreme Court affirming the impermissibility of public funds for religious or sectarian schools.

In approximately a dozen cases since 1971, involving the Establishment Clause of the First Amendment, the Court has applied a three-pronged test in judging the constitutionality of legislation or a government act: the statute must have a "secular legislative purpose"; it must have a "primary effect that neither advances nor inhibits religion"; and its administration must avoid "excessive government entanglement with religion."[35] With but two exceptions, all of these cases have had to do with tax aid to religious schools.

Not until June 28, 1971, in *Lemon* v. *Kurtzman* and *Earley* v. *DiCenso*, did the U.S. Supreme Court have occasion to strike down legislation authorizing public funds for church schools.[36] From almost any perspective, therefore, the Court's rulings in these cases must be viewed as landmark decisions in American church-state relations. In a unanimous decision the Court ruled in *Lemon* that Pennsylvania's Nonpublic Elementary and Secondary Act of 1968, which authorized the state to pur-

Nutrition Act of 1966, National Highway Safety Act of 1966, and the Vocational Educational Amendments of 1968, among others.

32. There is today within the Office of Education of HEW an Office of Nonpublic Education maintained to provide funds and services to nonpublic schools, directed by Edward R. D'Alessio, Deputy Commissioner of Education, who formerly served as Director, Division of Elementary and Secondary Education, U.S. Catholic Conference.

33. *Board of Education* v. *Allen*, 392 U.S. 236 (1968).

34. *Cochran* v. *Louisiana State Board of Education*, 281 U.S. 370 (1930).

35. While the Court dealt with "purpose" in Everson (1947) and with "purpose" and "effect" in *McGowan* (1961), the purpose-effect rule was not formulated by the Court until *Schempp* in 1963. This formulation was further expanded into the three-pronged test cited here in *Walz* v. *Tax Commission*, 397 U.S. 664 (1970) at 674, 675.

36. *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971); and *Earley* v. *DiCenso*, 403 U.S. 602 (1971).

chase such educational services as teachers' salaries, textbooks, and instructional materials for secular subjects, was unconstitutional. It did so on the ground that such aid would foster "excessive entanglement" between government and religion. In an 8 to 1 decision, in *Earley* v. *DiCenso*, the Court also declared unconstitutional the Rhode Island Supplement Act of 1969, which provided for a 15 percent supplement to be paid to private school teachers of secular subjects using the same instructional materials as those used in public schools. There can be no question, the Court said, but that the intent of the First Amendment is to maintain a boundary between church and state.

Two years later in three separate opinions, *Committee for Public Education and Religious Liberty* v. *Nyquist*, *Levitt* v. *Committee for Public Education and Religious Liberty*, and *Sloan* v. *Lemon*, the Supreme Court again denied the use of public funds for nonpublic schools.[37] In these three cases the Court specifically struck down five programs of public assistance in parochial schools. In *Nyquist*, in a 6 to 3 decision, the Court held as unconstitutional amendments to New York's Education and Tax Laws establishing three financial aid programs to nonpublic elementary and secondary schools: maintenance and repair of facilities and equipment and tuition reimbursement and tax credit plans for parents of children attending nonpublic schools. In *Levitt*, in an 8 to 1 decision, the Court ruled as unconstitutional a 1970 New York program which allocated $28 million annually to reimburse nonpublic schools for educational testing and other "mandated services" imposed by the state on nonpublic schools. In *Sloan*, in a 6 to 3 decision, the Court also ruled as unconstitutional a Pennsylvania law, the Parent Reimbursement Act for Nonpublic Education, which was designed to reimburse parents of nonpublic school pupils for part of the tuition expense ($75 for each child in elementary school and $150 for each child in high school).

The Court substantially restricted still further the use of public funds for parochial schools two years later in 1975, in *Meek* v. *Pittenger*.[38] Both educational materials and auxiliary services (remedial and special learning classes, counseling, testing, and psychological services), even when provided by public school personnel in parochial schools, were found to be in violation of the Establishment Clause of the First Amendment. Even more recently, in *Wolman* v. *Walter* (1977), in a taxpayers' suit challenging the constitutionality of an Ohio statute which provided auxiliary educational services to parochial schools, the Court declared the loan of instructional materials and equipment to parochial schools to be unconstitutional.[39] The Court categorically rejected the notion that the loan of such equipment and the funding of field trips were merely aids to the pupils rather than to the parochial schools themselves. While in *Wolman* the Court upheld the constitutionality of loan of secular textbooks and the providing of diagnostic and therapeutic services to parochial school pupils when administered by public officials on sites not identified with nonpublic schools, the Court clearly reaffirmed the impermissibility of

37. *Committee for Public Education and Religious Liberty* v. *Nyquist*, 413 U.S. 756 (1973); *Levitt* v. *Committee for Public Education and Religious Liberty*, 413 U.S. 472 (1973); and *Sloan* v. *Lemon*, 413 U.S. 825 (1973).

38. *Meek* v. *Pittenger*, 421 U.S. 349 (1975).

39. *Wolman* v. *Walter*, 433 U.S. 229 (1977).

ıe use of public funds for the support of religious schools.

Through the 1970s the Court has ıown a pattern of consistency in its enial of public funds to parochial :hools, and has done so on the basis f the proscription of the Establishıent Clause. As the Court said in *loan* v. *Lemon*, "If novel forms of ıd have not readily been sustained y this Court, the 'fault' lies . . . ɾith the Establishment Clause itɜlf. . . . With that judgment we are ot free to tamper."[40] While the emand for tax funds for parochial :hools will doubtless continue, the ossibilities of such aid have been gnificantly reduced by the Court's ılings during the past decade.

In the case of church-related colɜges or universities, the Court's osition has appeared to many to be ır less clear and, indeed, to be far ıore lenient than with tax aid to lementary and secondary parochial :hools. Even here, however, the Court has denied the constitutionaly of tax funds to church colleges r universities which are sectarian r pervasively religious and not sufciently secular in character. The Court has rendered three decisions lirectly bearing upon church-related olleges or universities. In *Tilton* v. *lichardson*, in a 5 to 4 decision in 971, the Court gave qualified apıroval for the use of federal funds or the construction of church college acilities not used, now or at any time n the future, for religious purposes ınd where the primary purpose of he college was found to be secular, ıot religious.[41] Two years later, in *Hunt* v. *McNair*, the Court upheld ı South Carolina statute which authorized the issuance of bonds to finance college facilities not used for religious purposes.[42] In applying the three-pronged test of constitutionality, the Court concluded that the Baptist-related college in question was not permeated by religion (there were no religious qualifications for serving on the faculty) and was providing education of a secular rather than a sectarian character. In the most important of the three decisions, *Roemer* v. *Board of Public Works*, the Court upheld in 1976, also in a split decision of 5 to 4, the constitutionality of a Maryland law which authorizes an annual subsidy to private colleges, including church schools, with the one proviso that none of the state funds be used for "sectarian purposes."[43] Eligibility for these funds also rested on the findings of the Court that the colleges in question were not found to be "pervasively sectarian," but that they performed "essentially secular functions" and were neither controlled nor financed by the church.[44]

40. *Sloan* v. *Lemon*, 413 U.S. at 835.

41. *Tilton* v. *Richardson*, 403 U.S. 672 (1971); this decision was handed down the same day as *Lemon* v. *Kurtzman* and *Earley* v. *DiCenso*.

42. *Hunt* v. *McNair*, 413 U.S. 734 (1973); this decision was handed down the same day as *PEARL* v. *Nyquist*, *Levitt* v. *PEARL*, and *Sloan* v. *Lemon*.

43. *Roemer* v. *Board of Public Works*, 426 U.S. 736 (1976).

44. Despite the formal affiliation of the four colleges in question with the Roman Catholic Church, the Church noted that the schools named did not: (1) receive any funds from, or make reports to, the Catholic Church; (2) inject church considerations into college decisions; (3) make the encouragement of spiritual development a primary objective or religious indoctrination a substantial purpose or activity; (4) require attendance at religious services; (5) exert "religious pressures" or hamper an "atmosphere of intellectual freedom"; (6) decide faculty hiring on a religious basis (apart from the religion and theology departments); (7) use public funds to support religion and theology programs; (8) practice religious discrimination in the admission of students; or (9) attempt to indoctrinate students or to proselytize.

The most serious proposal presently being pushed for providing public funds for religious schools is through proposed tuition tax-credit legislation. While such legislation failed to pass in the 95th Congress, serious efforts have been renewed in the 96th Congress. At present, the outcome of this legislation is by no means certain. However, if enacted into law, concerted efforts may be expected to be made to have the legislation declared unconstitutional by the courts.

The continuing dilemma with respect to religion and education is accentuated by the fact that the announced purpose of tuition tax-credit legislation is primarily to provide public assistance or tax support to religious schools, which comprise approximately 90 percent of all nonpublic elementary and secondary schools. Under present methods of financing elementary and secondary schools, the legislation would provide substantially more of federal funds per private school student than is now provided per public school student. Tuition tax-credit legislation constitutes a revolutionary concept in American public policy, since it would provide public funds to nonpublic schools which maintain and emphasize an essentially private and/or religious character and would in fact provide preferential treatment by way of additional federal tax aid to nonpublic schools. At the same time, tuition tax-credit legislation is manifestly discriminatory against elementary and secondary public schools, since public schools charge no tuition and therefore would in no way benefit from tuition tax-credit legislation. The Secretary of Health, Education, and Welfare has declared that such legislation would "deliver a devastating blow to public school education in this country."[45]

To have public education—elementary, secondary, and postsecondary—controlled by public policy in order to be eligible for public funds, while religious schools preserve their private and religious character without similar public control, yet receive public funds, would be foreign to the American experience and contrary to the guarantees of the First Amendment. In the light of the Court's decisions with regard to church-related colleges and universities, one must assume that their eligibility for tuition tax credit legislation must depend on their maintaining an "essentially secular" character and not being "pervasively sectarian" as to church control and church accountability. Ultimately, herein lies the crux of the issue relative to the identity and integrity of all religious schools as such. No amount of rhetoric or arguments on behalf of public funds for religious schools can obscure the danger for the future of these schools in the United States. As Justice John Paul Stevens warned in his dissent in the *Roemer* case, tax subsidies carry with them "the pernicious tendency . . . to tempt religious schools to compromise their religious vision."[46] For the churches the real issue is not whether church schools should accept public funds or not, but whether or not these schools seeking public funds should claim any religious identity or remain church-related or church-controlled. It is the determination of this question which is the crucial one with regard to public funds and religious schools.

45. *Religious News Service*, February 24, 1978.

46. *Roemer* v. *Board of Public Works*, 426 U.S. at 775.

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Cults, Brainwashing, and Counter-Subversion

By THOMAS ROBBINS and DICK ANTHONY

ABSTRACT: Periodically in American history, periods of spiritual ferment have erupted in which unconventional and sometimes rather authoritarian sects have developed. Such groups have often elicited extreme hostility and distrust and have, moreover, been perceived as fundamentally subversive of civil order and the ideals of Americanism. Counter-subversive movements have developed which have sought to mobilize opinion against heterodox sects and to legitimate religious persecution. The current agitation against cults exemplifies a counter-subversive campaign and bears similarities with nineteenth century anti-Masonic, anti-Mormon and anti-Catholic agitation. Significant parallels include over-generalized stereotypes applied to disparate groups, a stress on mental seduction and enslavement (mind control), and a tendency for counter-subversives to come to resemble their own stereotypes of target groups in terms of authoritarianism and intolerance. Both the growth of deviant sects and the emergence of counter-subversive hysteria should be viewed in the context of disturbances in the American civil religion with consequent cultural confusion and normative ambiguity.

Thomas Robbins is a sociologist of religion who is presently a post-doctoral fellow in the Sociology of Social Control Program at Yale University. He has written a number of articles on new religions including a review essay on "Contemporary Religious Movements" (co-authored with Dick Anthony) in the 1979 Annual Review of Sociology *and an essay on "Cults and the Therapeutic State" in* Social Policy Magazine.

Dick Anthony is a psychologist of religion who is research coordinator for the Program for the Study of New Religions at the Graduate Theological Union in Berkeley. He has published numerous articles on contemporary religion and has recently co-edited (with Thomas Robbins) In Gods We Trust, *a collection of papers which focuses upon a crisis in American civil religion as the formative context for the current proliferation of non-traditional religious movements.*

RECENTLY a sociologist of religion commented that "the general public is not so much concerned about societal conditions that led to the new [religious] movements. . . . Instead attention at the popular level has focused on the organization of recruitment efforts by the new groups. This is understandable from the human point of view, parents and friends of thousands of converts to the new movements are genuinely concerned about the welfare of converts, and are puzzled and alarmed at their affiliation with new and strange groups. The widespread concern, even hysteria, on the part of so many might also be viewed fruitfully as a predictable form of displacement, scapegoating, or an ingenious use of the 'outside agitator' theory to explain away extant problems."[1]

It is understandable in the light of Professor Richardson's comment that most of the journalistic and scholarly comment on today's "new religions," especially since the tragedy at Jonestown, has been hostile and alarmed. At the recent (February 5, 1979) hearings in Washington, D.C. convoked by Senator Dole on "cults" and their employment of "mind control," Dr. John Clark, a psychologist, testified that the number of religious converts who have now undergone behavior modifying techniques at the hands of absolutist groups "is now so high that both scientists and public servants must react strongly before it is too late."[2]

The trend of popular comment on today's cults is very much in line with the central tendencies of past commentary on new religions. As Dr. Harvey Cox has recently discovered, "in the stacks of the Andover Library at the Harvard Divinity School . . . most of the books on Mormonism treat the 'crimes of Mormonism', and present exposes of present day life in Utah. There are actually fewer objective, scholarly, to say nothing of sympathetic treatments."[3]

There is a recurrent sequence in American history in which sectarian (and sometimes rather authoritarian) religions emerge and elicit tremendous hostility. One consequence of this is the recurring development of what one historian has called a literature of counter-subversion which arises to legitimate movements of counter-subversion directed against the offending sects.[4] The present controversies over cults can be viewed in this context.

One interesting aspect of recurrent counter-subversive movements is their tendency eventually to come to resemble their own stereotypes of the groups to which they are reacting. Thus, McCarthyists of the nineteen fifties converged in some ways with the authoritarian Stalinists they attacked, and nineteenth century nativists and antimasons ultimately manifested some of the traits which they attributed to Freemasons, Catholics and Mormons. As one historian has noted, nineteenth century counter-subversive movements such as anti-Masonry, anti-Mormonism and anti-Catholicism reacted stridently

1. James T. Richardson, "Conversion and Commitment in Contemporary Religion: An Introduction," *American Behavioral Scientist*. vol. 20, no. 6 (July/Aug. 1977), p. 800.

2. Quoted in the *New York Daily News*, 6 February 1979, p. 4.

3. Harvey Cox, "Deep Structures in the Study of New Religions," in Jacob Needleman and George Baker, eds., *Understanding New Religions* (New York: Seabury, 1978), p. 125.

4. David Brion Davis, "Some Themes of Counter-Subversion: An Analysis of Anti-Masonic, Anti-Catholic, and Anti-Mormon Literature," *Mississippi Historical Review*, vol. 48, no. 2 (September 1960), pp. 205–224. Bobbs-Merrill History Reprint Series, H–48.

against the perceived authoritarianism, intolerance, chicanery and subversive tendencies attributed to their target groups. "Yet in his very zeal for freedom [the nativist] curiously assumed many of the characteristics of the imagined enemy. By condemning the subversive's fanatical allegiance to an ideology, he affirmed a similarly uncritical acceptance of a different ideology. . . . Though the nativist generally agreed that the worst evil of subversives was their subordination of means to ends, they themselves recommend the most radical means to purge the nation of troublesome groups and to enforce unquestioned loyalty to the state."[5]

The controversies surrounding deprogramming as a tactic to rescue the putatively enslaved victims of cults, invite a similar inference with regard to the contemporary anticult movement. In this connection one critic has charged that deprogramming "is far more like 'brainwashing' than the conversion process by which members join various sects."[6]

FEAR OF SUBVERSION

Harvey Cox has recently discussed the "subversion myth" whereby "a movement, whatever its religious intentions, is thought to pose a threat to the civil order. Sometimes these movements are seen as mainly religious fronts for political subversive movements, or as movements that will endanger the civil authority. . . . Time after time, polemical writers say that the main problem with 'these people' is not what they teach, but what would happen if their movement were to become widespread. It would somehow undercut the fabric of society."[7]

In the nineteenth century this "myth" was manifested in American Nativism and has been analyzed in David Brion Davis' classic discussion of "Themes of Counter-Subversion" in anti-Masonic, anti-Catholic and anti-Mormon literature. According to Davis, nativists distinguished between conventional denominations which "claimed only a partial loyalty from their members, freely subordinating themselves to the higher and more abstract demands of the Constitution, Christianity and American public opinion" and groups such as the Mormons, Masons and Catholics, which allegedly "dominated a larger portion of their members' lives, demanded unlimited allegiance as a condition of membership, and excluded certain activities from the gaze of the curious public."[8]

An "image of un-American conspiracy" arose in the nativist press, which produced pervasive fantasies of treason and secret criminality. "The distinguishing mark of Masonic, Catholic, and Mormon conspiracies was secrecy that cloaked the members' unconditional loyalty to an autonomous body. Since the organizations had corrupted the private moral judgment of their members,

5. Davis, "Some Themes of Counter-Subversion," p. 223.

6. John E. Lemoult, "Deprogramming Members of Religious Sects," *Fordham Law Review*, March 1978, p. 606. According to one psychologist, "The persuasion techniques used on both sides of the indoctrination-deprogramming issue are certainly manipulative," Daniel Bateson, "Moon Madness: Greed of Creed" in Irving Horowitz, ed., *Science, Sin and Scholarship: The Politics of Reverend Moon and The Unification Church* (Cambridge, MA: MIT Press), p. 222. "Cultists" and deprogrammers have similar ideologies which stress the attainment of autonomy through collective action, Thomas Robbins and Dick Anthony, "New Religions, Families and Brainwashing," *Society* 15 (No. 4, 1978).

7. Cox, "Deep Structures in the Study of New Religions," p. 126.

8. Davis, "Some Themes of Counter-Subversion," p. 211.

Americans could not rely on the ordinary forces of progress to spread truth and enlightenment among their ranks. Yet the affairs of such organizations were not outside the jurisdiction of democratic government, for no body politic could be asked to tolerate a power that was designed to destroy it. Once the true nature of subversive groups was thoroughly understood, the alternatives were clear as life and death."[9]

Today there appears to be considerable concern with the threat to social order allegedly posed by cultist mind control techniques. Dr. John Clark, a psychiatrist, sees cults as desiring "to change the very fabric of . . . society, which they would place under . . . totalitarian controls at all levels."[10] Dr. Clark is concerned with the possibility of "guards at prisons, military, atomic, and other critical installations, atomic submarine crews, and the like," being susceptible to sudden personality alteration via mind control.[11] Attempting to prosecute the Hare Krishna for employing "mind control" to imprison converts, an assistant district attorney in Queens, New York (1977) evoked a spectre of "an army of zombies or robots, who could undermine the government and law enforcement."[12]

More recently, Dr. Flo Conway and Jim Siegelman warn the readers of *Playboy* about a coming world in which the cults have taken over and "you cannot get a job in certain professions unless you have first taken 'the training', or where you cannot run for office unless you have accepted Jesus Christ as your personal saviour."[13] Particularly sinister in Conway and Siegelman's view is the Maharishi Maheesh Yogi's World Government for the Age of Enlightenment and the Maharishi's plan to resolve international tensions by spreading Transcendental Meditation. An ominous future is projected in which "large numbers of people in other countries may be laid open to mind control at the direction of self-appointed religious, social and political leaders."[14] Finally, the threat of civil order arising from cultist employment of mind control has been evoked by a law professor who warns, "If extremist groups may retire to a remote location, subject their followers to intensive conditioning designed to compromise their psychological integrity, and indoctrinate them in a world view in which the ends (salvation, the establishment of a theocracy) justify the means (deceptive recruitment, fraudulent fund-raising, violence), then *society may fear for its safety.*"[15]

The noted "deprogrammer", Ted Patrick, is also suspicious of the Maharishi, who is "one of the top people involved in a conspiracy to meddle seriously in world politics."[16] However, the outstanding subversive movement is clearly the Unification Church of Reverend Sun Myung Moon, whose international financial empire, ties to the South Korean dictatorship, anti-communist moral absolutism, and authoritarian theo-

9. Ibid.

10. John Clark, M.D., "Sudden Personal Change and The Maintenance of Critical Government Institutions," paper presented to the International Society of Political Psychology, Washington, D.C., 1979, p. 1.

11. Ibid., p. 9.

12. Quoted in Thomas Robbins, "Even A Moonie Has Civil Rights," *The Nation*, vol. 224, no. 8, p. 241.

13. Flo Conway and Jim Siegelman, "Snapping: Welcome To The Eighties," *Playboy*, March 1979, p. 218.

14. Ted Patrick, *Playboy* Interview, *Playboy*, March 1979, p. 68.

15. Richard Delgado, "Investigating Cults," *New York Times*, Op. Ed. Essay, 27 January 1979, p. A27. Our emphasis.

16. Patrick, *Playboy* Interview, p. 68.

cratic proclivities quite understandably elicit powerful hostility. An eminent sociologist who has studied the Moon movement concludes that the Church's essential properties embody "a categorical denial of the Lockean-Jeffersonian principle of the separation of church and state."[17]

Another writer argues that "the 'religious tenets' Moon proclaims dictate earthly power. The terrible irony is that he claims immunity under the First Amendment calling for the separation of church and state that his preaching and his practices intend to abolish."[18] This latter statement raises the issue of *whether groups whose tenets are antithetical to American democracy, or who would not themselves maintain constitutional democracy were they in a dominant position can safely be tolerated by a democratic order*. This problem also arose in the nineteenth-century counter-subversive campaigns in which Mormonism, Masonry and Catholicism "were seen to embody those traits that were precise antitheses of American ideals."[19] "How could democracy and Catholicism co-exist when, as Edward Beecher warned, 'The systems are diametrically opposed: one must and will exterminate the other'?"[20]

The campaign against Freemasons, like the later campaign against domestic communists in the nineteen fifties, was characterized by allegations that the subversives "had so deeply penetrated state and national governments, only drastic remedies could restore the nation to democratic purity."[21] According to one contemporary writer, "Moon's 'game plan' of assigning 'young ladies' to 'restore' Congress has been going on for years. They would be directed to 'hang around' in the offices and volunteer to take on extra work. When the workload became especially heavy, their offers would be accepted. Employment would then follow, either with the office or through a well-placed recommendation. The favored offices, of course, would be those who dealt in legislation that could touch Moon, either in an investigatory or regulatory way. The object would be leaks and influence."[22]

Ted Patrick has spicier allegations along these lines: "The Moonies start off with a hotel suite in Washington, and it was their PR team's job to approach every Congressman and Senator and lure him there. . . . Once they did, they were served good food, and there was dancing and anything else that followed. It was a fabulous hotel suite, and in it were beautiful American, Korean and Japanese girls, and once those girls got them into the hotel suite, it was their job to get them into bed. Whenever they had sex with those girls, it was taped, and then, a few days later, they they would call them up. . . . Moon himself had those girls line up and strip so he could inspect them. They had to perform and parade nude."[23] Patrick warns that Reverend Moon "is a wolf in sheep's clothing, with all his talk of anti-communism. I think he knows that if he came here as a Communist, he couldn't get anyone to join him. But if he came

17. Irving Louis Horowitz, "The Church Political: Religion and the Rise of the Rev. Moon," *The Nation*, vol. 228, no. 13 (7 April 1979), p. 328.

18. Anne Nelson, "The Church Political: God, Man and the Rev. Moon," *The Nation*, vol. 228, no. 12 (12 March 1979), p. 328.

19. Davis, "Some Themes of Counter-Subversion," p. 208.

20. Ibid., p. 212.

21. Ibid.

22. Nelson, "The Church Political," p. 328.

23. Patrick, *Playboy* Interview, pp. 83–84.

as an anti-Communist, he could get a lot of people."[24]

It is interesting to note that one critic of The Unification Church *qua* "the church political" has made an explicit analogy with the Mormons. Noting that "Neither rapacity nor politicking is new to religion in the United States," it is recalled how "Joseph Smith founded the Mormons, made them an armed militia, and declared himself "King of the Kingdom of God;" in 1844 he announced his candidacy for President of the United States."[25]

THE THREAT OF VIOLENCE

The early history of Mormonism is pervaded by ugly violence. The founding prophet, Joseph Smith, was murdered by a lynch mob; however, sect leaders were implicated in violence against opponents and critics of Mormonism, most notably the Mountain Meadows Massacre in 1857.[26] In the aftermath of the murder of Congressman Leo Ryan and the subsequent mass suicides in The People's Temple Community at Jonestown, Guyana, violence, particularly violence directed against critics, has become a frequent charge leveled against cults. Notwithstanding the Guyana tragedy and the substantial allegations against members of Synanon, there have clearly been distortions and lurid sensationalism. A full page article in the November 26 *New York Post* was entitled *Kill the Opposition!* The article, subtitled, "Religious Cults Are on the Warpath to Stamp Out Their Enemies," dealt primarily with the financial and legal manipulations of various movements. However, at one point anti-cultist Jean Merritt is quoted as stating that "Moonies and Krishnas and others . . . tell me they are willing to die for the Father or the Swami. They would die for him—and they would also kill for him." The reporters conclude that "suddenly the power and potential of the cults in America struck home. People are starting to realize that 'Kill the Opposition' could become quite a literal catchcry."[27]

Other anti-cult leaders have warned of future massacres and mass murders or suicides. According to Ted Patrick, cultists "will do anything they are told to do, including killing themselves, their parents, police, political leaders, *anybody* they feel is necessary." Consequently, "those major cults have the potential of doing what Jim Jones did or what Charles Manson did. The Jonestown suicides and murders weren't anything compared with what's going to happen. There's going to come a time when *thousands* of people are going to get killed right here in the United States."[28]

SUBVERTING MINDS

As should be evident from the foregoing discussion, the alleged subversive and violent proclivities of cults are related to putative stringent domination over the minds of devotees. Like Freemasons and Mormons in the nineteenth century, today's cultists are alleged to be morally corrupted through psychological manipulation. Though rank-and-file Catholics, Mormons and Freemasons

24. Ibid., p. 84.
25. Nelson, "The Church Political," p. 228.
26. Cf. Thomas F. O'Dea, *The Mormons* (Chicago: University of Chicago Press, 1957), p. 102–103.
27. Joy Cook, Hope McLeod and James Norman, "Kill The Opposition! Religious Cults are on The Warpath to Stamp Out Their Enemies, a Special Post Investigation," *New York Post*, 26 November 1978, p. 4.
28. Patrick, *Playboy* Interview, pp. 58–60. Emphasis in the original.

"were not" according to nativists "individually evil, they were blinded and corrupted by a persuasive ideology that justified treason in the interest of the subversive group. Trapped in the meshes of a machine-like organization, deluded by a false sense of loyalty and moral obligation, these dupes followed orders like professional soldiers and labored unknowingly to abolish free society, to enslave their fellow men, and to overthrow divine principles of law and justice."[29] This description reflects what Harvey Cox has called the "myth of the 'evil eye' " whereby it is thought that no sane person could possibly belong to a movement 'like this,' and therefore the participant must be there involuntarily. . . . There is a voluminous literature about how all of the Mormon women were being kept captive in polygamy by the brutal charismatic charm of the Mormon leaders. According to this material, there were no women living in Salt Lake City in the middle of the nineteenth century who were there voluntarily."[30]

Today's cults are accused of various depredations and abuses in areas such as finance, political lobbying and solicitation; however, the most persistent charges involve allegations that converts are psychologically kidnapped through mind control and brainwashing techniques. Jean Merritt, social worker and anticult activist, maintains, "I strongly believe that the members are not exerting their own free will. Their free will has been given up to the whims of their leaders by the isolation, lack of sleep, sexual acts, poor eating and sophistication of the psychological manipulations of the leaders. . . . The only comparisons that can be made with these groups, to help explain them, is to that of the Hitler Youth and the techniques used by the Chinese during what they call 're-education'."[31] According to Ted Patrick, "The cults type of programming consists of putting suggestions into a person's mind, constantly, until they've destroyed his ability to think. They take a person's mind away from him and make it impossible for him to act on his own, and they teach him self-hypnosis to keep him in that trance."[32]

The allegation that today's cults use brainwashing to attract and maintain converts entails a certain element of mystification. This analysis does not, however, presuppose that reprehensibly manipulative and coercive techniques of indoctrination are not present in contemporary non-traditional religious movements. Careful analyses of conversion processes in such groups by a number of social scientists indicate that models of thought reform and coercive persuasion have a definite if limited heuristic value in the analysis of processes of conversion and commitment to new religions. On the other hand, these studies also indicate that mind control and coercive persuasion models tend to deflect the researcher's attention away from certain salient aspects of even relatively authoritarian sectarianism, and to produce some distortions.[33]

29. Davis, "Some Themes of Counter-Subversion," p. 208.

30. Cox, "Deep Structures in the Study of New Religions," p. 127.

31. Jean Merritt, "Open Letter" (Lincoln, MA: Return to Personal Choice, Inc.), p. 3.

32. Patrick, *Playboy* Interview, p. 70.

33. See the following: Marc Galanter, Richard Rabkin, Judith Rabkin, and Alexander Deutsch, "The 'Moonies': A Psychological Study of Conversion and Membership in a Contemporary Religious Sect," *American Journal of Psychiatry*, vol. 136, no. 2, Feb. 1979, pp. 165–169; James Richardson, Mary Harder and Robert Simmonds, "Thought Reform and The Jesus Movement," *Youth*

These distortions have been magnified in certain formulations, which have applied brainwashing and mind control notions in a heavy-handed stereotypical manner, and have, moreover, employed conspicuously subjective concepts as a foundation for an indictment of cults. Thus, the agents of "pseudo-religions" are alleged to employ excessive friendliness to seduce unwary youth,[34] who are then mesmerized by hypnotic metaphors,[35] until finally they exhibit the horrendous pathological symptom of artificial happiness.[36]

The essentially ideological and stereotypical nature of mind control notions as they are currently applied to cults has been identified in recent analyses of the deprogramming and the anti-cult movement by sociologists. Dr. Anson Shupe and his colleagues have analyzed stereotypes of cults and brainwashed zombie-converts as social constructions of evil arising in a context of ideological conflict and social movement legitimation. It is argued that imputations of brainwashing, as they have been recently applied to cults and pseudo-religions, are convergent in several respects with typical imputations of demonism and spirit possession in late medieval Europe. Like the alleged victims of demonic spirits, cultists are actually viewed as being possessed in the sense of being "under the control of a separate personality or force that suppresses their own individual dispositions and uses them for purposes they would not normally accept. . . . This phenomenology of attributed possession is not radically different from similar instances gleaned from the history of Christianity and other religions."[37]

More recently Dr. Shupe and Dr. David Bromley have analyzed "Moonies" as today's *witches*, and have pinpointed certain "stigmata" or "signs of demonic possession" such as glazed eyes and the "Moonie stare," which are viewed by anticultists as indications of one's victimization by cultist mind control, but which Shupe and Bromley view as functioning analogously to the Devil's Mark and other notorious stigmata from pre-modern Europe.[38]

In the context of current controversies over cults, the brainwashing concept provides a putatively libertarian rationale for persecuting un-

and Society, vol. 4, pp. 185–200; James Richardson, "Types of Conversion and Conversion Careers in New Religious Movements," paper presented to the American Association for the Advancement of Science, Denver, April 1979; Eileen Barker, "Conversion into the Reverend Sun Myung Moon's Unification Church in Britain," paper presented to the British Sociological Association's Sociology of Religion Group at the London School of Economics, Sept. 1977; Eileen Barker, "Living the Divine Principle: Inside the Reverend Sun Myung Moon's Unification Church in Britain," *Archives de Sciences Sociales des Religions*, vol. 45, no. 1, 1978.

34. Dr. Louis J. West, M.D., quoted in Patricia Thomas, "Targets of the Cults: For the Downtrodden a Sense to Belong," *Human Behavior*, vol. 8, No. 3 (March 1979), p. 58.

35. Margaret Singer, "Coming Out of the Cults," *Psychology Today*, vol. 12, no. 8 (January 1979), pp. 72–83.

36. Court testimony of Dr. Samuel Benson quoted in Peter Collier, "Bring Home the Moonies," *New Times*, vol. 8, no. 12 (10 June 1977), p. 28.

37. Anson D. Shupe, Roger Spielmann and Sam Stigall, "Deprogramming: The New Exorcism," *American Behavioral Scientist*, vol. 20, no. 6 (July/August 1977), p. 946.

38. Anson D. Shupe and David G. Bromley, "Some Continuities in American Religion: Witches, Moonies and Accusations of Evil" in Thomas Robbins and Dick Anthony, *In Gods We Trust: New Patterns in American Religious Pluralism*. Transaction Books, forthcoming, 1979–80. A shorter version appeared as "Witches, Moonies and Evil," *Society*, vol. 15, no. 4 (May/June, 1978).

popular movements. The mystique of mind control implies that the concern of parents and anticultists is not so much with the content of cultist beliefs but with the way in which these beliefs have been inculcated and the quality of converts' minds. "Dissident religious or political movements can thus be persecuted for employing 'mind control' and their adherents seized and forcibly subjected to intensive counter-indoctrination . . . without conceding any desire to suppress a point of view."[39] Mystiques of "mind control" reflect an increasing reliance on social science as a rhetoric of social control in the context of a deepening cultural confusion and moral ambiguity, in which the punitive intent of social policies tends to be muted and authorities increasingly "rely on social scientists to provide therapeutic legitimations for social control."[40]

OVERGENERALIZED STEREOTYPES

The most significant distortion arising in the context of attacks on cults involves over-generalized stereotypes. It appears that an overgeneralized conception of cult has developed which projects onto diverse groups the perceived attributes of either the People's Temple or The Unification Church. Cults tend to be depicted as totalistic communal movements which stringently regiment devotees on a 24-hour basis and, moreover, utilize extreme deception to the extent of concealing from potential recruits the unconventional nature of the group and the requirements of membership.[41] In fact, many relatively authoritarian groups such as Hare Krishna do not deceive converts in this gross sense and are rather transparently deviant. More importantly, the majority of new religions are adaptive in the sense of not encapsulating devotees and not inhibiting their participation in conventional educational and vocational routines.[42]

The overstereotyping of cults in the 1970s recalls the social psychology of nineteenth century nativism, in which stereotypes of Mormonism, Freemasonry and Catholicism ultimately became nearly interchangeable, although the actual target groups had little in common. Thus, "as the image of an un-American conspiracy took form in the nativist press, in sensational exposes, in the countless fantasies of treason and mysterious criminality, the lines separating Mason, Catholic, and Mormon became indistinguishable."[43] According to the October 1829 *Anti-Masonic Review*, whether one looked at the Jesuits or Freemasonry, "the organization, the power, and the secret operation, are the same: except that Freemasonry is much the more secret and complicated of the two."[44] Recently,

39. Thomas Robbins, "Even A Moonie Has Civil Rights," *The Nation*, vol. 224, no. 8, p. 241.

40. Thomas Robbins and Dick Anthony, "New Religions, Families and Brainwashing," *Society*, vol. 15, no. 4 (May/June 1978), p. 80.

41. The allegation that cults generally combined extreme deception with totalistic regimentation has been made the basis of an allegation that commitments to such groups are not typically developed under conditions of "informed consent." Cf. Delgado, "Investigating Cults." For a critique of such sweeping typification, see Thomas Robbins and Dick Anthony, "The Limits of Coercive Persuasion as an Explanation for Conversion to Authoritarian Sects," paper presented to The International Society for Political Psychology, Washington, D.C., 1979.

42. Thomas Robbins, Dick Anthony and Thomas Curtis, "Youth Culture Religious Movements," *Sociological Quarterly*, vol. 16, no. 1, 1975, pp. 48–64.

43. Davis, "Some Themes of Counter-Subversion," p. 207.

44. Ibid., p. 207.

Ted Patrick declared, "I don't care which one's [cults] you're talking about, they *all* use the same techniques."[45]

THE WITNESS OF APOSTATES

One interesting fact about analyses which apply brainwashing notions to nontraditional religious movements and attribute psychopathological states to converts is their tendency to draw their inferences primarily from the accounts of ex-converts, especially ex-converts who have been deprogrammed.[46] In evaluating these accounts it is important to understand that one's past is not "fixed, immutable, invariable, as against the everchanging flux of the present. On the contrary, at least within our own consciousness, the past is malleable and flexible, constantly changing as our recollection re-interprets and re-explains what has happened. Thus we have as many lives as we have points of view."[47] A convert to an enthusiastic sect may exaggerate the extent to which he was depraved and disoriented prior to being saved; likewise a deprogrammed ex-sectarian, without intending to deceive, may exaggerate the degree to which he was manipulated, brainwashed and forced into depravity before being saved by the deprogrammer. Indeed, it may sometimes be convenient or comforting for ex-sectarians to accept a brainwashing mystique which defines ex-converts as involuntary victims of manipulation and thereby absolves them of responsibility for the things which they said or did as cultists.[48]

Apostate confessions and recriminations are a staple of counter-subversion agitation. Many former Freemason leaders, "expressing guilt over their own 'shameful experience and knowledge' of Masonry felt a compelling obligation to exhort their former associates to 'come out and be separate from Masonic abominations. . . .' A host of 'ex-Mormon wives' described their gradual recognition of Mormon frauds and iniquities, the anguish and misery of plural marriage, and their breathtaking flights over deserts or mountains. . . ." The apostate's pose sometimes assumed paranoid dimensions. William Hogan warned that only the former priest could properly gauge the Catholic threat to American liberties and saw himself as providentially appointed to save his Protestant countrymen. "For twenty years," he wrote, "I have warned them of approaching danger, but their politicians were deaf. . . ."[49]

In general, authoritarian sects which demand substantial sacrifices from participants tend to produce embittered authoritarian apostates. Many deprogrammers are actually former cultists who now lecture forcibly confined devotees on the evils of cultism and urge decisive government action. These activists somewhat resemble the anticom-

45. Patrick, *Playboy* Interview, p. 68. Dr. Margaret Singer, who assists in the rehabilitation of ex-cultists, professes to be impressed with the similarity of [sophisticated conditioning] techniques utilized by diverse cults, Singer, "Coming Out of The Cults," p. 72.

46. This applies more or less to the following: Singer, "Coming Out of The Cults"; Ronald Enroth, *Youth, Brainwashing and the Extremist Cults* (Grand Rapids, Michigan: Zondervan, 1977); and Flo Conway and Jim Siegelman, *Snapping: America's Epidemic of Sudden Personality Change* (New York: Lippincott, 1978).

47. Peter Berger, *Invitation to Sociology* (New York: Anchor), p. 57.

48. See Dean M. Kelley, "Deprogramming and Religious Liberty," *Civil Liberties Review*, vol. 4, no. 2 (July/Aug. 1977), p. 31.

49. Quoted in Davis, "Some Themes of Counter-Subversion," p. 223.

munist excommunists of the fifties, who were often in the vanguard of McCarthyism, and whose Stalinist proclivities did not always altogether disappear when they left the party but were redirected into efforts to strike back at "the God that failed."[50]

Discussing the recurrent myth of the evil eye pertaining to deviant sects, Harvey Cox notes the typical expression of this myth in "expose literature that usually comes with a title that includes the phrase, 'I was a. . . .' These include a description of how the apostate had been 'tricked' or 'hypnotized' or 'charmed' into it."[51] Such literature abounds today, a recent contribution having been made by Mr. Christopher Edwards, author of *Crazy For God: The Nightmare of Cult Life By An Ex-Moon Disciple*. Mr. Edwards, who was deprogrammed by Mr. Patrick, has written a "timely portrayal of cultist manipulation and psychological violence [which] provides a close-up look at the realities of life in a modern-day extreme religious cult."[52]

CONCLUSION: SPIRITUAL FERMENT AND NORMATIVE AMBIGUITY

"When a society would turn its eyes away from the deepest questions of responsibility, brainwashing becomes an explanation that avoids the necessity for looking inward."[53] The emergence of brainwashing mystiques in the fifties responded in part to an unwillingness to face the possibility that confused POWs in a stalemated war could lose faith in allied war aims. Today, by accepting the metaphor of brainwashing, "parents tend to mask the value conflict between themselves and their children. . . . Our children only *appear* to be repudiating our values because they have been driven crazy by evil men . . . by using the social scientific style of explanation of deviant behavior, they hope to enlist the aid of those institutions to which they have ceded their authority, e.g., courts and psychiatrists, in subduing their children's desertion from themselves and their world."[54]

The growth of deviant cults as well as the increasing counter-subversive agitation against them is taking place in the context of a broader structural and normative crisis in American society. Cults operate as surrogate extended families and, moreover, provide novel therapeutic and spiritual mystiques which confer meaning on social processes and experiences which can no longer be easily legitimated by increasingly problematic traditional ideologies.[55] In so doing, however, they exploit the weaknesses of existing institu-

50. For a discussion of ex-communist friendly witnesses before Congressional Committees in the late forties and early fifties which stresses the vindictive, unbalanced, and unreliable nature of some recanting witnesses, see David Caute, *The Great Fear: The Anti-Communist Purge Under Truman and Eisenhower* (New York: Simon and Schuster, 1978), pp. 122–138.

51. Cox, "Deep Structures in the Study of New Religion," pp. 127–128.

52. Quoted from jacket blurb, Christopher Edwards, *Crazy For God: The Nightmare of Cult Life by an Ex-Moon Disciple* (New York: Prentice-Hall, 1979).

53. Scheflin and Opton, *The Mind Manipulators* (New York: Paddington Press), p. 50.

54. Robbins and Anthony, "New Religions, Families and Brainwashing," p. 81.

55. See Irving Zaretsky and Mark Leone, *Religious Movements in Contemporary America* (Princeton: Princeton University Press); Thomas Robbins, Dick Anthony and James Richardson, "Theory and Research on Today's 'New Religions'," *Sociological Analysis*, vol. 39, no. 2, pp. 95–122; and Thomas Robbins and Dick Anthony, "Contemporary Religious Movements," *Annual Review of Sociology*, vol. 5, 1979, pp. 75–89.

ions (churches, nuclear families, psychiatry) and perhaps pose a threat to these institutions. Allegations of brainwashing conceptually neutralize this threat and reinforce the legitimacy of conventional social processes (the family) and reality orientations as against the putatively perverted social processes and inauthentic programmed orientations characterizing cults. Counter-subversive campaigns defend and redefine Americanism.

Counter-subversion campaigns throughout American history have reflected crises in American civil religion and have responded to pervasive normative ambiguity by redefining the nature of true Americanism in the process of stigmatizing sinister sectarian outgroups.[56] In the four decades before the Civil War, "economic growth intensified mobility, destroyed old ways of life, and transformed traditional symbols of status and prestige." Americans yearned "for unity in some cause transcending individual self-interest. This need for meaningful group activity was filled in part by religious revivals, reform movements, and a proliferation of fraternal orders and associations."[57]

The same moral ambiguity and need for community which facilitated the rise of these varied groups and associations also produced counter-subversive movements. "Jacksonians achieved a sense of unity and righteousness by styling themselves as restorers of tradition. Perhaps no theme is so evident in the Jacksonian era as the strained attempt to provide America with a glorious heritage and noble destiny. With only a loose and often ephemeral attachment to places and institutions, many Americans felt a compelling need to articulate their loyalties, to prove their faith, and to demonstrate their allegiance to certain ideals and institutions."[58] The stereotypes of Mormons, Masons and Catholics inverted the emerging ideals of Jacksonian democracy and the cult of the common man, and thus helped to define and accentuate these ideals. This was particularly evident in the stigmatization of Freemasonry as a secret aristocratic conspiracy of anti-democrats pledged to impart special privileges to each other and thus to deny equal opportunity and equal rights to all Americans.[59]

In the nineteen fifties the stig-

56. In a number of influential publications Robert Bellah has formulated the notion of civil religion, which refers to a set of politico-religious symbolic meanings which unite Americans into a moral community, and which both confers legitimacy on dominant institutions and serves as a basis for prophetic criticism of the status-quo as not fulfilling American ideals. Bellah's view of civil religion has shifted over time, but an essential element has been a notion of America as a sacred "Redeemer Nation" or "Chosen People," which embodies a messianic universal mission—a sort of sacred nationalism which links up "manifest destiny" with egalitarianism and the putatively universal ideals of democracy. See Robert Bellah, "Civil Religion in America," in Robert Bellah, *Beyond Belief, Essays on Religion in a Post-Traditional World* (New York: Harper & Row, 1970); *The Broken Covenant: American Civil Religion in Time of Trial* (New York: Seabury, 1975), pp. 168–189; "Religion and the Legitimation of the American Republic," *Society*, vol. 15, no. 4, May/June 1978, pp. 16–23. According to Bellah, "Today the American civil religion is an empty and broken shell," *The Broken Covenant*, p. 142. New spiritual mystiques are responding to this crisis of meaning. See also Bellah, "The New Religious Consciousness and The Crisis of Modernity," in Charles Glock and Robert Bellah, eds., *The New Religious Consciousness* (Berkeley: University of California Press, 1976), pp. 333–352.

57. Davis, "Some Themes of Counter-Subversion," p. 209.

58. Ibid., p. 209.

59. See Lee Benson, *The Concept of Jacksonian Democracy* (New York: Atheneum, 1964), pp. 3–20.

matization of the "communist conspiracy" and the subversive machinations of "communists in government" helped establish a "cold war" orthodoxy in American political thought. A quasi-religious meaning system was organized around the Manichean antithesis of "Godless Communism" vs. "The Home of the Free and the Brave." Cold War anticommunism helped maintain moral solidarity in American society (at the cost of repressive policies such as the firing of left-wing teachers) and legitimate post-war internationalist militarism. As one social critic has noted, in the fifties, "people in everyday life knew about Yalta and Potsdam, Hiroshima and Bikini. They had heard of the Rosenbergs, Alger Hiss, Judith Coplon. There was a culture of the Cold War era, and it had certain skewed integrity, from hula hoops to Elvis Presley and Francis Gary Powers. It was a culture with roots in the mass of American people, and it nurtured an elaborate growth of military might and ideological fervor."[60] The decline of Cold War orthodoxy after Viet-Nam has produced a crisis in American civil religion, which forms the context for both the proliferation of cults as well as the growth of anticult demonology.[61]

The middle and late nineteen seventies appear to be a period of attempted cultural reintegration and reaffirmation of traditional values. The stigmatization of cults is part "of a general backlash against forms of dissent and non-conformity which flourished in the late sixties and early seventies. Feminists, gay militants, and new religions are all experiencing retaliation for their stridency in the past decade (ironically, some guru groups and Jesus sects are anti-feminist and socially conservative)."[62]

The decline of the New Left has also been a factor in the growing anticult milieu. When radical students were occupying campus buildings, Hare Krishna seemed relatively innocuous. The disappearance of student radicals and hippies creates a need for a new typification of dangerous youth becoming the people our parents warned us against. The hostility of cults is thus linked to hostility to groups such as feminists and radicals, to which many of the sects are themselves antagonistic and with which they appear on the surface to have very little in common. Utopian communal sects articulate an implicit indictment of consumerist culture and, moreover, evoke a disturbing vision of the crumbling of moral order. They are natural scapegoats for the resurgent "Party of Order," which must see in every cult a replica of the People's Temple. As an activist anticult rabbi put it at the Dole hearings, "The path of cults leads to Jonestown."[63]

60. Andrew Kopkind, "Cold War II," *New Times*, vol. II, no. 9, 30 October 1978, p. 41.

61. See Dick Anthony and Thomas Robbins, "The Effect of Detente on the Growth of New Religions: Rev. Moon and the Unification Church," in J. Needleman and G. Baker, eds., *Understanding New Religions* (New York: Seabury, 1978).

62. Robbins and Anthony, "New Religions, Families and Brainwashing," p. 80.

63. Rabbi Maurice Davis quoted in *The Washington Post*, 6 Feb. p. A 14.

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Tax Problems Posed by Pseudo-Religious Movements

By ROBERT L. BEEBE

ABSTRACT: Assume for a moment that in 1847 one Brigham Young had presented himself to your local tax assessor and stated that he was the presiding clergyman of the Church of Jesus Christ of the Latter-Day Saints and that he was therefore entitled to the appropriate real property tax exemptions for property owned by him and his church. Chances are that Mr. Young's requests would have been quickly, if not summarily, denied. And yet, in 1979, if a Mormon clergyman requests an exemption on a Mormon church anywhere in the United States, there will undoubtedly be few if any problems prior to speedy granting of that request. What happened during those one hundred thirty-two years to change the assessor's attitude is, of course, a chapter in American history. When that change in attitude occurred or, more precisely, what standards and criteria might have been applied in each situation is the subject of this paper.

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UNITED STATES history is, as we have all been taught, substantially tied to the concept of freedom of religion. The course of this history, from its inception, has seen not only freedom for religious activity, but actually a certain protection and even support from society. Among the many indications of society's support are the various tax exemption statutes available to religious organizations and clergyman—a clear indication of an historic judgment that this activity is worthy of not only protection but preservation.

In creating the significant constitutional and statutory privileges, we have also created a series of extremely sensitive issues. Included among these issues and applicable to all tax exemption laws are those relating to scope and duration of benefits, protected and non-protected use of property, and the filing of information necessary for sound decision-making. These are questions which have been with us from the beginning, and they and others like them are and will continue to be debated for as long as religion maintains its status as an essential element of society.

The nature of the protection or subsidy and the extent of permitted activity are questions which can and do exist in a context where there is no dispute concerning the legitimacy of the applicant as a religion or a clergyman. However, when we examine pseudo-religious organizations or so-called cults, we encounter an entirely different and probably much more sensitive set of issues. In fact, these issues will arise not only from pseudo-religions or cults but, as suggested earlier, from any person or group claiming status as a new religion. In the face of the sudden appearance of a hitherto unknown religious claimant, the tax administrator is faced with the most fundamental of questions: who is a clergyman? what is religion? what right does the state have to inquire into religious belief?

These are the issues which are raised by any new religious claimant, pseudo or otherwise. And, although it is not a problem which is as novel as many believe, some of the answers may be more fully developed than ever before in the mass of litigation associated with the property tax exemption claims of members of the Universal Life Church, Inc. in the town of Hardenburgh, New York. The application of existing legal principles to the Hardenburgh "tax revolt" may ultimately provide as much guidance as anything in the administration and application of tax laws to pseudo religious movements.

CONSTITUTIONAL ISSUES AND JUDICIAL AUTHORITY TO DETERMINE WHETHER AN ORGANIZATION IS RELIGIOUS

State involvement with religion and religious beliefs raises constitutional issues. Both the First Amendment to the United States Constitution and Article 1, Section 3 of the New York State Constitution preclude the State from prohibiting the free exercise of religion. Therefore, before we can reach a conclusion on the substantive issue of whether or not a particular organization is religious, we must address the threshold question of whether the State may constitutionally determine what is or is not a religion.

The limits of constitutional state involvement with religion have been set forth in a series of decisions handed down by the United States Supreme Court. While not entirely homogenous, in these decisions the

Supreme Court has attempted to reconcile the conflicting mandates of the Establishment and Free Exercise Clauses of the First Amendment.

One of the leading cases involved a challenge to the constitutionality of New York Real Property Tax Law, section 420. The decision in *Walz* v. *Tax Commission of City of New York*[1] articulates the Court's position on the scope of the First Amendment's protection. In holding the New York statute constitutional, the Court, through Chief Justice Burger, stated that:

> The course of constitutional neutrality in this area cannot be an absolutely straight line; rigidity could well defeat the basic purpose of these provisions, which is to insure that no religion be sponsored or favored, none commanded, and none inhibited. The general principle deducible from the First Amendment and all that has been said by the Court is this: That we will not tolerate either governmentally established religion or governmental interference with religion. Short of those expressly prescribed governmental acts there is room for play in the joints productive of a benevolent neutrality which will permit religious exercise without sponsorship and without interference. . . .
>
> . . . No perfect or absolute separation is really possible; the very existence of the Religion Clauses is an involvement of sorts—one that seeks to mark boundaries to avoid excessive entanglement.[2]

Added to this discussion, is an earlier Supreme Court case in which the Court held that the truth or falsity of the beliefs was of no concern to the government. In *United States* v. *Ballard*[3] we find an additional and very strict limitation of government inquiry.

> Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others. Yet the fact that they may be beyond the ken of mortals does not mean that they can be made suspect before the law. . . .
>
> Man's relation to his God was made no concern of the state. He was granted the right to worship as he pleased and to answer to no man for the verity of his religious beliefs.[4]

Within the context of the Selective Service Act, criminal prosecutions for refusal to serve in the armed services arose where registrants claimed that compulsory military service was violative of their right to the free exercise of their religion. In one such case, *Unites States* v. *Seegar*,[5] the Supreme Court of the United States expounded on what facts the Selective Service could inquire into in these cases without violating the First Amendment:

> The validity of what he believes cannot be questioned. . . . Local boards and courts in this sense are not free to reject beliefs because they consider them "incomprehensible." Their task is to decide whether the beliefs professed by a registrant are sincerely held and whether they are, in his own scheme of things, religious.
>
> But we hasten to emphasize that while the "truth" of a belief is not open to question, there remains the significant question whether it is "truly held." This is the threshold question of sincerity which must be resolved in every case. It is, of course, a question of fact—a prime consideration to the validity of every claim for exemption as a conscientious objector.[6]

Thus, we see a delicate balancing of the individual's right to belief

1. *Waltz* v. *Tax Commission of City of New York*, 397 U.S. 664, 90 S.Ct. 1409, 25 L.Ed.2d 697 (1970).
2. Ibid., 90 S.Ct. 1409, 1411–12.
3. *United States* v. *Ballard*, 322 U.S. 78, 64 S.Ct. 882, L.Ed. 1148 (1944).
4. Ibid., 64 S.Ct. 882, 886–87.
5. *United States* v. *Seeger*, 350 U.S. 163, 85 S.Ct. 850, 13 L.Ed.2d 733 (1965).
6. Ibid., 85 S.Ct. 850, 863.

as against the right of government to challenge the sincerity and good faith of persons claiming the protection of the First Amendment. However, not only must these fundamental rights be balanced, but also there is the difficult question of how to determine the "legitimacy" of the unknown religions.

Fellowship of Humanity v. *County of Alameda*[7] was a case in which the plaintiff was denied a real property tax exemption as a religious organization on the ground that it did not espouse a belief in a supreme deity. In holding that the plaintiff was entitled to such an exemption the court stated:

> Thus the only inquiry in such a case is the objective one of whether or not the belief occupies the same place in the lives of its holders that the orthodox beliefs occupy in the lives of believing majorities, and whether a given group that claims the exemption conducts itself the way groups conceded to be religious conduct themselves.[8]

The Federal Courts balanced this test of comparability with one of purpose. *Founding Church of Scientology* v. *United States*,[9] was a prosecution for the condemnation and destruction of "devices" with accompanying "false and misleading labeling" subject to condemnation under the Food, Drug and Cosmetic Act.[10]

The defense was that the devices were an integral part of the defendant's religion. The government conceded that the defendant was a religious entity and relied upon the distinction between holding religious beliefs and acting upon them. The Court reversed the conviction, noting that within limits, action is also protected by the First Amendment. As to the church's status as a religion, the court stated:

> We do not hold that the Founding Church is for all legal purposes a religion. Any prima facie case made out for religious status is subject to contradiction by a showing that the beliefs asserted to be religious are not held in good faith by those asserting them, *and that forms of religious organization were erected for the sole purpose of cloaking a secular enterprise with the legal protections of religion* (emphasis added).[11]

It is clear that the State may not only determine whether or not religious beliefs are sincerely held, but it can and must determine if such beliefs are religious in the first place. This power and responsibility was perhaps most clearly articulated in *Wisconsin* v. *Yoder*.[12]

The *Yoder* case was a criminal prosecution of Amish for not obeying Wisconsin's compulsory education law. The Amish claimed that their religion was endangered by public education after the eighth grade, and that the First Amendment prohibited the State from enforcing the compulsory education laws against them. In finding for the Amish, the Court discussed the kinds of beliefs afforded protection by the First Amendment.

> A way of life, however virtuous and admirable, may not be interposed as a barrier to reasonable state regulation of education if it is based on purely secular considerations; to have the protection of the Religion Clauses, the claims must be rooted in religious belief. *Although*

7. *Fellowship of Humanity* v. *County of Alameda*, 153 Cal.App.2d 673, 315 P.2d 394 (Cal. Dist. Ct. of App., 1957).
8. Ibid., 315 P.2d 394, 406.
9. *Founding Church of Scientology* v. *United States*, 409 F.2d 1146 (U.S.C.A., D.C. Cir., 1969), cert. den. 396 U.S. 963, 90 S.Ct. 434, 24 L.Ed.2d 427.
10. Food, Drug and Cosmetic Act, 21 U.S.C. section 301 *et seq.* (1964).
11. Ibid., 409 F.2d 1146, 1162.
12. *Wisconsin* v. *Yoder*, 406 U.S. 205, 92 S.Ct. 1526, 32 L.Ed.2d 15 (1972).

a determination of what is a "religious" belief or practice entitled to constitutional protection may present a most delicate question, the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests. Thus, if the Amish asserted their claims because of their subjective evaluation and rejection of the contemporary secular values accepted by the majority, much as Thoreau rejected the social values of his time and isolated himself at Walden Pond, their claims would not rest on a religious basis. Thoreau's choice was philosophical and personal rather than religious, and such belief does not rise to the demands of the Religion Clauses (emphasis added).[13]

One further case worthy of mention is *Theriault* v. *Carlson*,[14] commenced by Dr. Harry W. Theriault, Bishop of the Church of the New Song of Universal Life. Mr. Theriault possessed a mailorder Doctor of Divinity degree. As a federal prisoner he claimed that federal officials were violating his First Amendment right to the free exercise of his religion. His claim was that while Catholic and Protestant chaplains were allowed to meet with members of their faith and to use prison facilities for religious services, these privileges were being denied to him and his followers of "Eclat." There was testimony that the movement had started as a joke. In holding that the plaintiff's rights under the First Amendment had not been abridged, the court declared:

> While it is difficult for the courts to establish precise standards by which the bona fides of a religion may be judged, such difficulties have proved to be no hindrance to denials of First Amendment protection to so-called religions which tend to mock established institutions and are obviously shams and absurdities and whose members are patently devoid of sincerity.[15]

DEFINING RELIGION AND DENOMINATION

Having established that there is not only a right but a duty to inquire, the critical issue for the State to decide is what is a religion or religious denomination? Inevitably these questions become enmeshed, and to some extent case law reflects that mix of issues.

In the *Matter of American Bible Society* v. *Lewisohn*,[16] the New York Court of Appeals discussed some of the elements that qualify applicants for exemption as religious organizations:

> We conclude that within the contemplation of subdivision 1 of section 421 the American Bible Society is "exclusively" (in the sense of principally or primarily) organized and conducted for Bible purposes and not for religious or educational purposes. It is true that foreseeably and inevitably the consequence of its corporate activities may be the advancement of the Christian religion; indeed the Holy Bible is the abecedarium of Christianity. There is, however, no reference in the Society's charter documents to Christianity or to religion; to the contrary, the expressed purpose to publish and circulate "without note or comment' precludes alignment with any doctrinal or denominational interpretations or positions. The promotion of religion in a broad or generic sense is the byproduct of the accomplishment of the Society's corporate

13. Ibid., 92 S.Ct. 1526, 1533.

14. *Theriault* v. *Carlson*, 495 F.2d 390 (1974), cert. den. 419 U.S. 1003, 95 S.Ct. 323, 42 L.Ed.2d 279, *on remand sub nom. Theriault* v. *Silber*, 391 F.Supp. 578 (W.D. Tex. 1975), *remanded*, 547 F.2d 1279 (5th Cir., 1977).

15. Ibid., 495 F.2d 390, 395.

16. *Matter of American Bible Society* v. *Lewisohn*, 40 N.Y.2d 78, 351 N.E.2d 697, 386 N.Y.S.2d 49 (1976).

Bible purpose. In this sense, we distinguish *Matter of Watchtower Bible & Tract Soc. of N.Y.* v. *Lewisohn*, (35 N.Y. 2d 92, 358 N.Y.S.2d 757, 315 N.E.2d 801). In that case the corporation was the governing body of the religious group known as Jehovah's Witnesses, thus, "the ecclesiastical governing body of a recognized religious denomination with its own beliefs and form of organization" (p. 97, 358 N.Y.S.2d p. 760, 315 N.E.2d p. 803). In the present case there is no corporate affiliation between the American Bible Society and any denomination, sect, or organization having as its avowed purpose the furthering of a recognized religion, nor is the publication and distribution of the Bible by it directly associated with any denomination or sect, or with any such organization.[17]

Thus, the determination turns to a great extent on proof that the applicant is in fact a religion; corporate activities which merely advance the Christian denomination are not considered sufficient for exemption. There is further dicta to indicate that a religious organization should be affiliated with a recognized religious denomination which has its "own beliefs and form of organization." These indications are found in the very first paragraph of the opinion of Justice Jones:

> We hold that a corporation organized and conducted exclusively for the purpose of publishing and distributing the Holy Bible, when neither the corporation nor its corporate activity is directly associated with an organized religious denomination or with an organization having as its avowed purpose the furthering of a recognized religion, is entitled only to a qualified exemption from real property taxation under section 421 (subd. 1, par. [b]) of the Real Property Tax Law. . . .[18]

Further authority for the proposition that the denomination must have its own beliefs, form of organization and ecclesiastical governing body, is found in an earlier Court of Appeals case involving Jehovah's Witnesses. In *Watchtower Bible and Tract Society* v. *Lewisohn*,[19] the Court held that the appellant organization was entitled to exemption because: "Watchtower Bible and Tract Society of New York, Inc., is the governing body of the religious group known as Jehovah's Witnesses. . . . It is the ecclesiastical governing body of a recognized religious denomination with its own beliefs and form of organization."[20]

Thus, case law in this area indicates that a religious group can be a "religious denomination" even though its doctrines are unconventional (*People ex rel. Watchtower Bible and Tract Society* v. *Mastin, supra*), but a religious denomination nonetheless must have doctrinal or denominational interpretations and positions. (*American Bible Society* v. *Lewisohn, supra*, and *Matter of Watchtower Bible and Tract Soc. of N.Y.* v. *Lewisohn, supra*). Over the years, the judiciary's review of this question has established a rather definite set of principles which have been set forth in a series of decisions from the New York courts.

To begin, the fact that a church may be chartered as a "religious

17. Ibid., 386 N.Y.S.2d 49, 53.
18. Ibid., 386 N.Y.S.2d 49, 50.

19. *Watchtower Bible and Tract Society* v. *Lewisohn*, 35 N.Y.2d 92, 315 N.E.2d 801, 358 N.Y.S.2d 757 (1974).

20. Ibid., 358 N.Y.S.2d 757, 760; see also *Swedenborg Foundation, Inc.*, v. *Lewisohn*, 40 N.Y.2d 87, 351 N.E.2d 697, 386 N.Y.S.2d 54 (1976), which cites with approval *Watchtower*; *People ex rel. Outer Court of the Order of the Living Christ* v. *Miller*, 161 Misc. 603, 292 N.Y.S. 674, 1936, *aff'd*, 256 App.Div. 814, 10 N.Y.S.2d 208 (1939), *aff'd* 280 N.Y. 825, 21 N.E.2d 881 (1939); *Gospel Volunteers, Inc.*, v. *Village of Speculator*, 33 App.Div.2d 407, 308 N.Y.S.2d 785 (1970). *aff'd*, N.Y.2d 622, 273 N.E.2d 139, 324 N.Y.S.2d 412 (1971).

corporation" under the law of the State of New York is not the final determinative of the church's status for purposes of real property taxation. For example, in *In re Religious Society of Families*,[21] the Supreme Court, Chautauqua County, held that the fact that a religious society had incorporated itself under the Religious Corporations Law was not determinative of its status as a nonprofit religious corporation. Relying on an examination of the actual tenets and beliefs of the society as set forth in its constitution and by-laws, which included a denial of the existence of God and a total reliance upon human reason, the court found that the society was not a religious organization as that term was intended to be used in the Real Property Tax Law, and therefore was not entitled to a tax exemption with respect to the real property which it owned.

It must be stressed that New York courts are constantly determining what is religious or non-religious for tax as well as other purposes. The distinction is that the First Amendment to the United States Constitution and Article 1, Section 3 of the New York State Constitution preclude the State from judging the quality of religious belief. But the State does have an interest in determining whether or not organizations are religious in nature.

In *In re Fay's Estate*,[22] the Surrogate held that a gift to the Y.M.C.A. was subject to a transfer tax because it was not made to a religious (and hence exempt) organization. The court stated:

> It seems to me, further, that a religious corporation should be one formed primarily for religious purposes, exercising some ecclesiastical control over its members, having some distinct form of worship, and some method of discipline for violation thereof; and that the mere fact that it has been formed for a good and worthy object, in which incidentally there will be some religious exercises involved, does not make it a religious corporation.[23]

Application of Basilio Scientific Spiritist Cult Association, Inc.,[24] involved an organization seeking to incorporate pursuant to section 10 of the Membership Corporations Law. This section of the law provides for the organization of membership corporations for any lawful purposes but expressly excepts "a purpose for which a corporation may be created under any general law other than this chapter." The Religious Corporations Law is such a general law, and in denying the application, the court held:

> It is not for me to assume to pass judgment on the religious quality or spiritual probity of the faith here sought to be promulgated and established (cf. Matter of New York Soul Clinic, Inc., 208 Misc. 612, 144 N.Y.S.2d 543). It is my judicial responsibility solely to determine whether the proposed association is or is not in its essence truly to be a religious corporation. That, I am convinced it is, and, as such, I have concluded that the application should be (and it is) denied.[25]

In re Jesus Sobre Las Aguas,[26] was a proceeding pursuant to Article 9 of the Religious Corporations Law for approval of a certificate of incorporation as a free church.

Paragraph 2 of the proposed certificate reads as follows:

21. *In re Religious Society of Families*, 73 Misc.2d 923, 343 N.Y.S.2d 159.

22. *In re Fay's Estate*, 37 Misc. 532, 76 N.Y.S. 62 (Sur. Ct. Kings Co. 1902).

23. Ibid., 76 N.Y.S. 62, 64.

24. *Application of Basilio Scientific Spiritist Cult Association, Inc.*, 9 Misc.2d 231, 170 N.Y.S.2d 679 (Sup. Ct. Sp. Term, N.Y. Co., 1958).

25. Ibid., 170 N.Y.S.2d 680, 681.

26. *In re Jesus Sobre Las Aguas*, 21 Misc.2d 937, 197 N.Y.S.2d 804 (Sup. Ct., Bronx Co., 1960).

2. The purpose of the organization is the founding and continuing of a free church, or churches, to be established within the County of Bronx, in the City and State of New York. The church shall be a non-profit organization. The church shall hold religious services and shall offer its facilities for the religious meditation and guidance of the membership and of the public at large. It shall also offer assistance to the needy and work for the social and spiritual betterment of the community.[27]

In denying approval the court held:

The Legislature did not intend by this act that a justice of the Supreme Court is required perfunctorily to put his signature of approval to any certificate of incorporation on the bare statement of the subscribers that they propose to establish a church and to hold religious services, without more. Where the purpose is the founding or continuing of one or more free churches, there should be some statement of the nature of the religious doctrine or dogma that the proposed free church intends to expound and teach. Application of New York Soul Clinic, 208 Misc. 612, 144 N.Y.S.2d 543. This is absent in the certificate submitted and the occupations of its several subscribers do not permit any inference to be drawn as to any particular religious beliefs or preaching that might be professed and propounded in the proposed church.

Freedom of worship is a natural right of every person, protected by our federal and state constitutions. This right will be respected and not denied nor infringed upon in our land. But what is termed "religious" must be truly such and must be shown to be such on the application presented; otherwise, the statute could be used as a vehicle to cloak an organization of a different nature from that intended and permitted by it. Accordingly, the Court declines to approve the submitted certificate of incorporation.[28]

27. Ibid., 197 N.Y.S.2d 804, 805.
28. Ibid., 197 N.Y.S.2d 804, 806.

In the *Soul Clinic* case cited above by the court, Justice Levy also refused to approve the application for incorporation as a religious corporation:

And that brings me (both logically and chronologically) to the *second* ground for rejection of the certificate. The statute requires that the certificate state "the purpose of its organization." The subscribers here state that the "purpose" of the New York Soul Clinic, Inc., is "to found and continue one or more free churches." That statement is not enough. Article IX of the Religious Corporations Law, under which this certificate was presented, deals only with "free churches." A free church is one in which —as provided in one of the sections of that article, Section 183 of the Religious Corporations Law—no charge is generally to be made for the seats and pews of the church. It may be that the desire and intent of the proposed society is to establish a free church—and in that sense, perhaps, that is its "purpose." But what religious doctrine this free church elects to expound and teach is nowhere stated. I do not mean by that that the creed thus proposed must necessarily be one of the established faiths. Religious creeds, old and new, are constitutionally protected in our state and nation. What I do mean to say is that whatever the basic creedal purpose of this free church, the petitioners should adequately formulate and articulate it in the certificate presented for filing. And there is nothing in the present certificate which indicates what the purpose of the incorporation is.[29]

The thrust of the last five cases is two-fold. First, the State can and does have to determine if particular organizations are "religious" in nature. And, second, both old and new religions are constitutionally protected provided they have any substance.

DEFINING "CLERGYMAN"

When the courts turn from the problem of defining religion to that

29. Ibid., 144 N.Y.S.2d 543, 546.

of identifying clergymen, they often find that they are led inexorably back to the first issue. Here, the necessity for the State to make a determination and the judicial challenges to those determinations are many and varied.

One of these is New York's Domestic Relations Law, section 11, which enumerates those persons who may solemnize marriages in the State of New York. This section, in pertinent part, reads as follows:

§11. *By whom a marriage must be solemnized*

No marriage shall be valid unless soleminized by either:

1. A clergyman or minister of any religion, . . .***

6. The term "clergyman" or "minister" when used in this article, shall include those defined in section 2 of the religious corporations law. . . .

There have been a series of cases which have discussed those persons who are clergymen or ministers and who, therefore, are authorized to perform a marriage ceremony pursuant to Domestic Relations Law, section 11 (1).

The most appropriate case to begin with is that of *Ravenal* v. *Ravenal*,[30] the only New York case found concerned with the Universal Life Church. This was an action for an annulment on the ground of the alleged invalidity of the marriage by reason of solemnization by a person not authorized to perform the marriage ceremony. The person performing the ceremony was a guitarist and folksinger by occupation. The parties to be married were advised that he was also a member of the Universal Life Church, Inc.

The court quoted from the Religious Corporations Law, section two, which defines an "unincorporated church" as a "congregation, society, or other assemblage of persons who are accustomed to statedly meet for divine worship or other religious observances, without having been incorporated for that purpose."

The Religious Corporations Law, section 2, defines the term "clergyman" or "minister" as including "a duly authorized pastor, rector, priest, rabbi, and a person having authority from, or in accordance with, the rules and regulations of the governing ecclesiastical body of the denomination or order, if any, to which the church belongs, or otherwise from the church or synagogue to preside over and direct the spiritual affairs of the church or synagogue."

After discussing the attributes of the Universal Life Church, Inc., the court held:

Applying the statutory definition of "clergyman" or "minister," it is clear that the person purportedly solemnizing this marriage neither had authority from a "governing ecclesiastical body of the denomination or order" nor "otherwise from the church or synagogue to preside over and direct the spiritual affairs of the church or synagogue." *Universal Life Church, Inc., is not an ecclesiastical body of denomination or order; indeed, it is entirely non-ecclesiastical and non-denominational.* Thus, in the absence of an actual church or stated meeting-place for worship or any form of religious observance, presided over or directed by a person regarded by such group as its minister, whether or not properly ordained, which would vest in such person the authority to perform the marriage ceremony, the person here in question, whose authority on this record rests solely on his having obtained in the mail the card entitled "Credentials of Ministry", must be deemed to be without such authority (emphasis supplied).[31]

30. *Ravenal* v. *Ravenal*, 72 Misc.2d 100, 338 N.Y.S.2d 324 (Supreme Court, New York County, 1972).

31. Ibid., 338 N.Y.S.2d 324, 328.

Another case decided under section 11 of the Domestic Relations Law, *In re Silverstein's Estate*,[32] was a petition by one of the children of a decedent's first marriage to revoke limited letters of administration issued to the respondent. It was alleged that the respondent was not the widow of the decedent and that such representation to the court was a false representation of a material fact. The evidence showed that the decedent and the respondent went through a marriage ceremony in 1939 which conformed to the Jewish religion and custom, as practiced by the members of their congregation. Shortly after the ceremony, however, they denied the existence of the marriage when questioned by investigators for the Department of Public Welfare for the City of New York.

The petitioner contended that even if the court believed that a marriage ceremony took place, it was void because it was not solemnized by a person permitted to do so by statute. The court discussed Domestic Relations Law, section 11, subdivision 1, as it existed at the time of the ceremony, as well as the definition of an "unincorporated church" as defined in section 2 of the Religious Corporations Law, even though section 11 of the Domestic Relations Law did not refer to the above-mentioned section of the Religious Corporations Law as it does at the present time.

The court found that the marriage ceremony was performed in a synagogue and went on to state:

> It was testified that a congregation of about 25 persons regularly worshiped in this synagogue. There is no proof that this congregation formed a part of any of the existing religious movements followed by people of the Jewish faith. Moskowitz was known to them as the rabbi and he regularly performed all the duties of the spiritual leader for this group. He served this congregation from 1933 to 1943. He took over the duties of a man who performed a similar service to the congregation prior to 1933 and he relinquished his charge to one who carried on after 1943. The synagogue is still continuing to serve its congregation. There is no evidence before me that Moskowitz received authority from any governing body of any denomination or order to act as rabbi. However, such authorization is unnecessary. The "minister" may receive his authority from the synagogue to preside over and direct its spiritual affairs. Moskowitz was the only one to conduct services in this synagogue for a period of ten years. That he received his authority to act as spiritual leader from this congregation is evident from the fact that this group attended services regularly under his spiritual leadership in a building used and set apart by them as a house of worship (emphasis supplied.)[33]

Therefore, it was the holding of the court that Moskowitz was a person authorized by statute to solemnize a marriage, and that the ceremony performed by him for the decedent and the respondent was a valid marriage. On this basis the petition to revoke the limited letters theretofore issued was dismissed.

As can be seen by examining both this case and section 2 of the Religious Corporations Law which defines an "unincorporated church," it is not necessary that a "minister," "priest" or "rabbi" be formally ordained or that such a congregation be formally associated with any traditional denomination or religious group. The authority of a clergyman to solemnize a marriage may be conferred by his acting as the spiritual leader of his particular congregation. A factual analysis of this case shows

32. *In re Silverstein's Estate*, 190 Misc. 745, 75 N.Y.S.2d 144 (Sur. Ct., Bronx County, 1947).

33. Ibid., 75 N.Y.S.2d 144, 145–46.

that the respondent was able to demonstrate that Moskowitz had, in fact, been granted authority to preside as the spiritual leader from the congregation and performed such duties regularly.

The case of *In re Liebman's Estate*,[34] is also relevant. This case was a proceeding on a petition by one claiming to be the wife of the decedent, to vacate a decree granting letters of administration to the son of the decedent. The petitioner claimed that the clergyman who presided at the first marriage, in 1910, was not registered either in the New York City Clerk's office as required by Domestic Relations Law, section 11-b, nor had he ever been a member of either the orthodox or reformed rabinical associations. Therefore, the petitioner claimed that the first marriage was not valid and that she, the decedent's second wife, should be granted letters of administration. The court rejected this contention pointing out: "He obviously was a rabbi of a small but now non-existent orthodox Jewish congregation in the lower east side of Manhattan. This contention is overruled (*Matter of Silverstein's Estate*, 190 Misc. 745, 75 N.Y.S.2d 144; *In re Cossin's Estate*, Sur., 126 N.Y.S.2d 363 [not otherwise reported])."[35]

In numerous instances, the courts throughout the country have considered this question and handed down decisions which consistently provide a series of criteria for determining the applicant's right to be termed a "clergyman."

The criteria to be drawn from the cases are as follows:

34. *In re Liebman's Estate*, 44 Misc.2d 191, 253 N.Y.S.2d 461 (Sur. Ct., Westchester County, 1963).

35. Ibid., 253 N.Y.S.2d 461, 463.

Formal ordination into the ministry is unnecessary for a person to be a "minister of the gospel."

Power to act as a minister of the gospel may come from the congregation.

Courts, particularly in the marriage cases, have looked to the proven existence of a congregation and of a regular place of worship, the regularity and continuity of the religious services conducted, and the extent of the minister's service to his congregation, in determining if an individual qualified as a "minister."

Historically and as the term in commonly understood, a minister of the gospel is a teacher and a leader. He is one who is regularly available for the conduct of divine services, the teaching of the precepts, creed and dogma of his respective sect or denomination, and visible as the spiritual representative of his church.[36]

THE UNIVERSAL LIFE CHURCH IN NEW YORK

From even this brief and somewhat cursory examination of the development of law relating to religion and tax administration, it is clear that when pressed in individual situations the State will inquire into the validity or legitimacy of a claim for preferential treatment based upon religious affiliation. However, there apparently has never been a situation comparable to that which has occurred in New York State since 1976.

In that year, self-appointed leaders

36. See as examples: *Kidder* v. *French*, Smith 155 (N.H., 1807); *Sanger* v. *Inhabitants of Third Parish in Roxbury*, 8 Mass. 265 *Londonderry* v. *Chester*, 2 N.H. 268 (1820); (1811); *Baldwin* v. *McClinch*, 1 Me. 102 (1820); *In re Reinhart*, 9 Ohio S. E.C.P.441 (Cuyahoga Probate Court, 1899); *Pfeeffer* v. *Board of Education*, 118 Mich. 560 (1898); *In re Swenson*, 183 Minn. 602, 237 N.W. 589 (1931); *St. Matthews Lutheran Church for Deaf* v. *Division of Tax Appeal*, 18 N.J. Super 552, 87 A.2d 732.

of a so-called tax revolt announced that they would attack the State's tax exemption policy through the formation of a new church. The vehicle of this new religion was the Universal Life Church, Inc., a corporation established in the State of California in 1962. In New York individuals have become "ministers" of the Universal Life Church both by writing the California church and by being "ordained" by "ministers" here in New York. Mass ordinations have taken place in various sections of the State, and in Hardenburgh, New York, these mass ordinations resulted in nearly the entire population becoming "ministers."

In an article published December 9, 1976, it was reported that of the 239 residents of the Town of Hardenburgh, 105 had submitted applications for religious exemptions on their real property. The assessor for the Town of Hardenburgh was reported to have said at that time that by May 1 (taxable status date, or the time a decision must be made on whether to grant an exemption) he expected that most of the residents would have submitted applications.[37] By December 23, 1976 the number of applicants in Hardenburgh was reported to have risen to 118.[38]

One individual who has been extremely active in the ordination of ULC ministers is a plumber from Liberty, New York, George McLain. Mr. McLain has promoted himself from Bishop to Cardinal as the number of his ordinations has increased. It has also been reported that among many other mass ordinations, Mr. McLain ordained 10,000 persons at once in Moriches Bay, Long Island.[39]

A newspaper account on January 13, 1977, discussed Mr. McLain's ordinations at a meeting set up by the Plattekill Taxpayers Association in Modena. Nearly 100 taxpayers attended and 135 ULC cards (credentials of ministry) were handed out. A fellow ULC minister, Stephen J. Schwarz, was quoted as saying "some for people at home."[40] Talking on the telephone from his home, Mr. McLain was quoted as admitting that no ordination ceremony was necessary. "As a matter of fact," he said into the telephone, "I'm ordaining some people in Saskatchewan right now."[41] In this same article it was reported that Mr. McLain's ordinations have exceeded the 17,000 mark.

While many of the newspaper articles have tied Mr. McLain into a tax protest movement, he has been quoted as saying "I have to be careful what I say publicly about taxes. . . ."[42] But many of his followers have discussed taxes. At the Modena meeting, Lester Bourke, Hardenburgh town supervisor, was quoted as saying "my town is dying" from tax inequities. At the Plattekill meeting Mr. McLain stated "I never discuss taxation." The story continues:

> However, the Cardinal instructed residents what a minister must do in order to gain a tax exempt status.
>
> "You can't just go into your assessor's with your ministers' card and say 'here you go baby, I'm off the tax rolls,' you have to get the proper papers," said the Cardinal.
>
> Lester Bourke, Supervisor of the town that saw the light was on hand to explain how Hardenburgh residents filed for tax exemption.
>
> If a ULC minister has at least three members in his church and holds services on a regular basis, his home and/or

37. *Ulster County Gazette*, 9 December 1976.

38. *Politics and Religion*, 23 December 1976.

39. Ibid., *Politics and Religion*, 23 December 1976.

40. *The Daily Freeman*, 13 January 1977.

41. Ibid.

42. Ibid.

property can be declared a church, thereby gaining tax exempt status, said Bourke. The process of becoming a church is simple, he said, just fill out the forms and send $30 to ULC headquarters to receive a non-incorporated, non-chartered ULC church affiliate.[43]

In the January 27, 1977 edition of the *Ulster County Gazette* it was reported that there were now over 20,000 ULC ministers in New York. After Mr. McLain ordained 150 new ministers, Stephen J. Oppenheim, attorney for the Committee For Taxation spoke on the legal aspects of obtaining church charters and property tax exemptions. The reporter noted "In fact, more questions were directed at Oppenheim than at the Liberty plumber-turned-cleric; the ministers were obviously eager to learn how they can (legally) form their churches." Mr. Oppenheim discussed what it takes to be a church and was quoted as then stating: "We believe that if you do your part, *we can establish that you have a church.*" (emphasis supplied).[44]

Adding to the unique circumstances, the town officials actively joined in the movement, and the assessor, hired shortly after the 1976 meetings, agreed to exempt all applicants. By the time of the filing of the tentative 1977 assessment roll, virtually all property owned by residents of Hardenburgh had been placed in the exempt portion of the roll, as the town, in effect, laid down the gauntlet to the State. The result has been a legal battle, now entering its third year, in which three principal parties have challenged both the validity of the actions of the local officials and the religious bona fides of the respondent property owners and the ULC itself.

43. *Southern Ulster Pioneer*, 19 January 1977.

44. *Ulster County Gazette*, 27 January 1977.

Throughout this battle, the primary challenge has been waged by the State Board of Equalization and Assessment, the administrative agency charged by law with the responsibility to oversee and supervise property tax administration in the State. Initially, in response to the Board's demand to examine municipal assessment records, the Town contended that the State had no right to review local actions, including the examination of public records. This argument was rejected by the courts,[45] and subsequently the Board moved to suspend use of the 1977 roll (which, as a result of the exemptions, showed a reduction in taxable assessed value in excess of 33 percent).

Ultimately, a full administrative hearing was conducted by the State Board, the result of which was a finding that the assessor had "ignored his statutory duties."[46] Orders were issued to the assessor directing that all exempt ULC property be restored to the taxable portion of the roll, and in a series of judicial decisions, the State's jurisdiction and the validity of the orders were affirmed.[47]

The second party challenging the Town has been the State of New York in its capacity as a taxpaying property owner in the Town. As a result of the actions of the assessor, all remaining taxable property experienced a significant increase in taxes, beginning in September of 1977. In response, the State has challenged the basic right of the properties to

45. *Kerwick* v. *SBEA and Robert L. Beebe*, (Sup. Ct. Ulster Co. 1977).

46. Final Report of Hearing Officer, In the Matter of the Investigation into the Taxable Status of Properties owned by the Members of the Universal Life Church, Incorporated, dated Oct 21, 1977.

47. *SBEA* v. *Kerwick*, 92 Misc.2d 547, 400 NYS2d 711 (Sup. Ct. Albany Co. 1977); *Kerwick et al* v. *SBEA*, (Sup. Ct., Albany Co., 1978); *SBEA, et ano, etc.*, v. *Kerwick, etc., et al* (Sup. Ct. Albany Co. 1979).

exempt status, and in a second series of decisions, the courts have affirmed the State's right to do so.[48]

The third party who has initiated judicial challenge against the Town's actions is a private taxpaying property owner. Initially, this individual joined in the suit by the State of New York attacking the legality of the assessor's actions. As with the State, the courts have affirmed the right of the individual to mount this challenge.[49] However, in the second year, 1978, when the exemptions were again granted, this individual moved to another forum. In a proceeding commenced pursuant to the Civil Rights Act of 1871, the taxpayer has alleged that the actions of the Town represent a violation of the anti-establishment clause of the First Amendment to the Federal Constitution. The Town vigorously opposed this suit, but in a lengthy opinion the U.S. District Court has agreed to hear the case.[50]

At the date of this writing, the assessment roll has been filed for 1979, the third year of the continuing controversy. That 1979 roll shows no ULC exemptions. However, more than two hundred properties have paid no taxes for the past two years, and the liability of those properties and the town officials is now the subject of numerous appeals from the decisions just summarized.

CONCLUSION

The initial suggestion of this paper is that it is the new religion which must present the most difficult issue in this most sensitive matter. However, there can be no alternative to tax administrators other than to accumulate the necessary information relating to the applicant's religious attributes and to make a determination. To do less would abdicate responsibility and would make meaningless the privilege society extends to religious organizations and clergy. In the absence of appropriate denials of this status, all who apply would qualify.

There is clearly no bar to appropriate investigation and decision making. Moreover, the courts certainly recognize the potential dynamic nature of the religious status:

> Qualification for tax exemption is not perpetual or immutable; some tax-exempt groups lose that status when their activities take them outside the classification and new entities can come into being and qualify for exemption.[51]

And while sensitive to the difficulties of the issue, the courts will not allow public officials to abdicate their duty:

> For the respondents to protest that they are unable to define "religion" or "religious" is unacceptable in light of the duties imposed upon them by law. Although difficulties are sometimes encountered in examining religious beliefs in view of the strictures of the First Amendment to the United States Constitution, the courts have established ample guidelines for respondents in this area, as demonstrated in petitioner's comprehensive and well documented memorandum. Suffice it to say, the inquiries made by respondents and the evidence accepted by them in granting the exemptions appear to be totally inadequate.[52]

The failure of all the respondents

48. *State of New York* v. *Kerwick, Board of Assessment Review, and "John Doe and Jane Doe"*, (Sup. Ct. Albany Co. 1978).

49. *Dudley* v. *Kerwick, Board of Assessment Review, "John Doe and Jane Doe"*, (Sup. Ct. Ulster Co. 1978).

50. *Dudley, et al* v. *Kerwick, et al* (SD NY 1979).

51. *Walz* v. *Tax Commission*, 397 US 664, 673.

52. *SBEA* v. *Kerwick, et al.*, (St. Ct., Albany Co. 1977).

here to follow in their most recent hearings the guidelines prescribed by the petitioner for qualification for religious exemptions and the wholesale manner in which such exemptions were granted mark their determinations in this regard arbitrary and capricious.[53]

In short, no attempt was made by the assessors to ascertain the type of property for which the exemption was sought and, thus, the primary issue on the question of taxable exemption was missed.[54]

In this most difficult public office, the tax administrator becomes the first point of decisionmaking on this most difficult and sensitive issue. However, he is not without well established standards and criteria and his obligation to apply those and to make an informed and reasonable determination is clear. To abdicate that responsibility would not only be a violation of his public trust but also would represent an injustice to both the remaining taxpayers and the institutions and people rightfully entitled to the privilege:

While it is difficult for the court to establish precise standards by which the bona fides of a religion may be judged, such difficulties have proved to be no hindrance to denials of First Amendment protection to so-called religions which tend to mock established institutions and are obviously shams and absurdities and whose members are patently devoid of sincerity.[55]

53. Ibid.
54. Ibid.
55. *Theriault* v. *Carlson*, 495 F.2d 390, 395.

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Grand Jury Subpoenas and First Amendment Privileges

By EUGENE R. SCHEIMAN

ABSTRACT: In recent years, the right of a witness to rely upon the religious clause of the First Amendment as a basis for refusing to answer questions put to him or her by a grand jury has become an increasingly urgent issue. The historical growth of the grand jury has resulted in the development of a powerful investigative body with only the most minimal checks on its power. These checks have regrettably been insufficient to protect the fundamental First Amendment rights of some witnesses subpoenaed to appear and testify before a grand jury. American churches have become increasingly involved in activities which have brought the churches and those involved in their missions into intimate contact with groups likely at one time or another to become targets of government investigation. Thus, churches are faced at this moment with the probability of an ever increasing wave of governmental subpoenas designed to tap the immense wealth of knowledge which has accrued and will continue to accrue to church personnel fulfilling their mission. This article proposes a three-part test to determine whether, when testimony is sought, it is little to ask that the government meet some minimal tests before being permitted to intrude on ground considered inviolate for as long as this nation has existed.

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No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury. . . .[1]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .[2]

ENSHRINED by these phrases are two of the most cherished rights of Americans—the right to freely worship (or not worship) solely according to personal dictates and the right not to answer to the government for serious crimes unless a jury of fellow-citizens concludes that enough evidence exists to justify the government's proceeding to trial. Though these rights do not seem to conflict, a conflict can develop between them. Indeed, in recent years, the conflict which has developed in the case law governing the juxtaposition of these rights has become increasingly alarming.

On the one hand, the historical growth of the grand jury has resulted in an accretion of tremendous powers to those conducting such proceedings—powers cloaked under the protective veil of a constitutional guarantee. On the other hand, modern-day ministries have brought the churches and those involved in their missions, including lay ministers and others, into intimate contact with members of groups likely at one time or other to become targets of government investigations. The conflict, then, centers upon the right of a witness subpoenaed to appear and testify before a grand jury to rely upon the religious clause of the First Amendment as a basis for refusing either to appear before, or to answer questions put to him or her by, a grand jury. The problems presented in this conflict can best be considered in light of the historical development of each of these constitutional imperatives.

1. U.S. Const. Amend. V.
2. U.S. Const. Amend. I.

THE GRAND JURY SYSTEM

The Fifth Amendment guarantees that no citizen shall be held to answer to the government for a serious crime allegedly committed, unless a jury of his fellow citizens shall conclude that there is sufficient evidence to justify a trial. The system comes to us from ancient times; the first recorded appearance of the grand jury being in the records of the assize of Clarendon, issued by Henry II in 1166.[3] The ancient assize usually consisted of twelve men from the locale, summoned together to try a disputed cause, performing the functions of a jury. In its earliest stages,[4] the grand jury presented indictments at the behest of private individuals or the prosecutor for the King. After the assize of Clarendon, however, these juries could present either from their own knowledge or from the information of others.[5]

The function of the grand jury grew out of the responsibility of each community for the preservation of the peace. Originally, it functioned as a means by which the Norman Kings of England obtained answers from representatives of local units of government concerning royal property and franchises and whereby communal responsibility for the acts of criminals was enforced. It is from the latter task of the ancient grand jury, that is, the enforcement of

3. See Orfield, *Criminal Procedure from Arrest to Appeal*, pp. 135–193, for a discussion of the evolution of the grand jury.
4. See *U.S.* v. *Smyth*, 104 F.Supp. 283, for a discussion of the history of the grand jury.
5. See Holdsworth, *A History of English Law*, p. 321.

communal responsibility for the acts of criminals, that the present-day grand jury evolved as an instrument for the prosecution of crime.

Also developing during these early stages were the grand jury's plenary powers to investigate, and the secrecy of its deliberations—now essential elements of the system. Secrecy originally developed to protect the King's Counsel and to permit the Prosecutors to influence the grand jury, as well as to prevent the alleged criminal from taking flight before the indictment was presented. The secrecy of the proceedings, however, allowed the development of an anomaly: cloaked with such secrecy the grand jurors felt safe from government repercussion and, at times, refused to indict, notwithstanding pressure from the Crown and its judges.

Thus, for example, in the year 1681, there occurred the two most celebrated instances of the fearless action of the grand jury in defending the liberty of the subject, although subjected to strong pressure from the Crown.[6] In that year, a bill of indictment against Stephen College for high treason was submitted to a grand jury in the City of London and, although Lord Chief Justice North first compelled the grand jury to hear the evidence in open court, the grand jury demanded that the witnesses be sent to them to be examined privately. After consideration, the grand jury ignored the bill, and upon being asked by the Lord Chief Justice whether they would give a reason for this verdict, they replied that they had given their verdict according to their consciences and would stand by it.

In the same year, an attempt was made to indict the Earl of Shaftesbury for high treason. After hearing the witnesses and considering their verdict, the grand jury again ignored the bill. These two cases are perhaps pointed out more often than any others as instances of the independent action of the grand jury.

At the same time, the grand jurors stubbornly retained the power of instituting an investigation on the basis of their own knowledge or taking a rumor or suspicion and expanding it with the help of witnesses, thus developing the absolute and almost unrestricted inquisitorial powers which the grand jury now possesses.

At the time of the settlement of this country and the framing of the Constitution, then, the grand jury had evolved into an inquiring and accusing tribunal and had at the same time acquired a popular reputation as a guardian of the people against wrongful governmental intrusion based upon its having, upon occasion, stood as a barrier against political persecution.[7]

From these historical essentials and their exercise, the role of the grand jury has evolved so that it is now properly described as:

> . . . a grand inquest, a body with powers of investigation and inquisition, the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime.[8]

In order to facilitate its functioning in a manner consistent with that description, the grand jury has been jucidially afforded almost unfettered

6. See Edwards, *The Grand Jury* (1906), pp. 28–29.

7. See the Charge of Justice Field, reported at 2 Sawyer 667.

8. *Blair* v. *U.S.*, 250 U.S. 273, 282.

powers. For example, the grand jury may investigate a field of fact with no defendant or criminal charge specifically in view; and its investigations need not be preceded by any definition whatever of the crime to be investigated or the persons against whom an accusation is sought. Thus, in *Hale* v. *Henkel*, a witness appeared before the grand jury and before being sworn, asked to be advised of the nature of the investigation; whether is was under any statute of the United States; the specific charge, if any; and that he be furnished with a copy of the complaint, information or proposed indictment upon which the grand jury was acting. The witness declined to answer the questions propounded to him upon the ground that there was no specific charge pending before the grand jury against any particular person. In holding the witness in contempt for his refusal to answer, the court stated:

> . . . the examination of witnesses need not be preceded by a presentment or indictment formally drawn up, . . . the grand jury may proceed, either upon their own knowledge or upon the examination of witnesses, to inquire for themselves whether a crime cognizable by the court has been committed.[9]

Furthermore, the grand jury is not bound by the same rules of evidence which operate at a criminal trial. As stated by the United States District Court for the Southern District of California in *In Re Weir*:

> A grand jury proceeding is not an adversary hearing in which the guilt or innocence of an accused is adjudicated. Rather it is an *ex parte* investigation to determine whether a crime has been committed and whether criminal proceedings should be instituted against any person.[10]

9. *Hale* v. *Henkel*, 201 U.S. 43, 65.
10. *In Re Weir*, 377 F.Supp. 919, 925.

Thus, in *United States* v. *Calandra*,[11] police seized evidence at the defendant's place of business outside the scope of the search warrant which they had obtained. Subsequently, a grand jury subpoenaed Calandra and sought to query him based on the unlawfully seized evidence. In ordering Calandra to answer the grand jury's questions, the Court held that as long as the tainted evidence was excluded at trial the deterrent purpose of the exclusionary rule would be served and that whatever gains in deterrence would be made by excluding such evidence from grand juries would be marginal, and consequently the grand jury could use evidence illegally seized from a witness as a basis for questioning that witness.

Grand jurors may, therefore, avail themselves of virtually any sources of information. As noted in *U.S.* v. *Smyth*:

> The grand jurors had a right to use rumors, hearsay, reports and even suspicion in initiating an investigation, and it made no difference whether these were oral or written or whether acquired inside or outside grand jury hearings, and the persons who gave information need not have been grand jurors or witnesses or under prescribed or other oath.[12]

In view of the extremely broad powers vested in the grand jury, it is perhaps not surprising that a witness appearing before the grand jury has available to him fewer rights and remedies than a witness or litigant before any other tribunal.

"It is a fundamental rule of law that the public has a right to every person's evidence."[13] And, as the Supreme Court remarked in *Gelbard* v. *U.S.*, "we deal here not with the

11. 414 U.S. 338.
12. *U.S.* v. *Smyth*, 104 F.Supp. 283, 298.
13. *U.S.* v. *Nixon*, 418 U.S. 683, 710.

rights of a criminal defendant but rather with the status of a witness summoned to testify before a body devoted to sifting evidence that could result in the presentment of criminal charges."[14]

Thus, for example, the witness may not have counsel present during the questioning before the grand jury. In *U.S.* v. *Addonizio*, where the defendant moved to dismiss the indictment against him on the ground that he was made to appear and testify before the grand jury without being permitted to have counsel in the room with him, the Court, in upholding the indictment, stated that, "This was an entirely regular and acceptable procedure."[15]

Citizens generally are not constitutionally immune from grand jury subpoenaes, and indeed the only testimonial privilege that is rooted in the Constitution is the Fifth Amendment privilege against compelled self-incrimination.[16]

Indeed, if the prosecutor decides to confer immunity, the witness loses even that most basic of rights. For example, the witness in *Hale* v. *Henkel*, discussed above, had also based his refusal to answer on the privilege against self-incrimination, though he had been offered and assured immunity from punishment. The court refused to allow the witness to invoke the privilege:

> If the testimony relate[s] to criminal acts . . . for which [the witness] . . . is guaranteed an immunity, the amendment does not apply.[17]

It is fair to say then, that the grand jury is a powerful investigative body with only the most minimal checks on its powers. These checks, as we shall see, have regrettably been insufficient to protect the fundamental First Amendment rights of witnesses subpoenaed to appear and testify before an inquiring grand jury, particularly those witnesses mentioned above and later more fully delineated.

THE FIRST AMENDMENT'S RELIGION CLAUSES

The religion clauses of the First Amendment form the novel framework of the relationship between secular authority and religious institutions in the United States. Before discussing the interaction between these clauses and the grand jury, it is once again appropriate to review the historical development of this constitutional guarantee.

The seemingly simplistic divorce of government and religion characterized by the language of the clauses is the result of this nation's particular experience with respect to the exercise of religion and the evils connected with governmental intrusion upon that which, in the words of James Madison, "must be left to the conviction and conscience of every man."[18] It is the result of the history of a people who set out to find a place where governmental interference in religious matters would no longer be a way of life or death and where the conscience of every man could be exercised or not, according to his own opinion, rather than the dictates of a monarch or tyrant. Indeed, in large part, the early settlers of this country came from Europe to escape laws which compelled them to support and attend government-favored churches.

The centuries immediately before

14. *Gelbard* v. *U.S.*, 408 U.S. 41, 75.
15. *U.S.* v. *Addonizio*, 313 F.Supp. 486, 494.
16. See *Branzburg* v. *Hays*, 408 U.S. 665.
17. *Hale* v. *Henkel*, 201 U.S. 43, 67.

18. Madison, *Memorial and Remonstrance Against Religious Assessments* II, *The Writings of James Madison*, p. 183.

and contemporaneous with the colonization of America were filled with turmoil, civil strife, and persecutions, generated in large part by established sects determined to maintain their absolute political and religious supremacy. In efforts to force loyalty to whatever religious group happened to be in league with the government of a particular time and place, men and women had been fined, cast in jail, cruelly tortured, and killed. Among the offenses for which these punishments were inflicted were such derelictions as speaking disrespectfully of the views of ministers of government-established churches, non-attendance at church services, expressions of nonbelief in the doctrines of the established church, and failure or refusal to pay taxes and tithes to support the established church, or at the very least some church.

Though early colonists came to this country to escape the oppressive nature of the linkage between secular and religious authority, the very practices of the Old World which formed the basis of emigration were transplanted to and began to thrive anew on the soil of the New World. Men and women of varied faiths who happened to be a minority in a particular locality were persecuted because they steadfastly persisted in worshipping God only as their own consciences dictated. And all of these dissenters were compelled to pay tithes and taxes to support government-sponsored churches whose ministers preached inflammatory sermons designed to strengthen and consolidate the established faith by generating a burning hatred against dissenters.

As these practices spread, they became so commonplace as to shock the colonists into a feeling of abhorrence—the same abhorrence which had caused so many of their ancestors to come to this country initially. The persecutions based on religious differences and the imposition of taxes to pay ministers' salaries and to build and maintain churches and church property once again aroused their ire and opposition. It was these feelings which found expression in the religion clauses of the First Amendment.

Recognizing the historical needs thus expressed, Supreme Court decisions concerning the meaning of the religion clauses have noted "[t]he place of religion in our society is an exalted one . . ."[19] and because of this "exalted" position of religion in our societal framework, the Court has been firm in its resolve that no government intrusion be permitted into the area of free exercise unless the interest to be served is of the highest order.

Thus, in *Wisconsin* v. *Yoder*, Chief Justice Burger writing for the Court stated in an opinion reversing an Amish parent's criminal conviction under a compulsory school attendance law:

> The essence of all that has been said and written on the subject is that only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion.[20]

While recognizing the high order of protection due the religious clauses, the Court has also been most careful not to wield the Amendment as a bludgeon against religion practice in America. Thus, the Court has noted that the Amendment "does not require the state to be . . . [organized religion's] adversary. State power is no more to be used so as

19. *Abington Township* v. *Schempp*, 374 U.S. 203, 226.

20. *Wisconsin* v. *Yoder*, 406 U.S. 205, 215.

to handicap religions, than it is to favor them."[21]

Indeed, the Court has recognized that religious exercise is part of the very fabric of our nation and is to be viewed with "benevolent neutrality." Thus, Chief Justice Burger noted in *Walz* v. *Tax Commission*, a case involving tax exemption for church property:

> The general principle deducible from the First Amendment and all that has been said by the Court is this: that we will not tolerate either governmentally established religion or governmental interference with religion.[22]

Thus, the court has expressed the highest degree of awareness of that special and delicate relationship between church and state that has been a unique feature of our nation's history and has, to date, carefully maintained that "wall of separation between Church and State[23] which in the words of Jefferson, the Amendment was intended to erect.

AMERICAN CHURCH MINISTRIES

Nurtured in this special atmosphere of non-interference, American churches have become increasingly involved in rectifying and ameliorating socially undesirable conditions, and have created ministries among oppressed and disadvantaged persons and groups to carry out such work. For example, churches have created entities to deal with and minister to the needs of minority groups such as blacks, Hispanics, Asians, and Native Americans; have established divisions for service and mission in America to minister specifically to the needs of the disadvantaged; and have defined, as at least part of their ministries, an active expression of concern on the part of their congregations for the quality of human life, and direct aid in improving the quality of life for both parishioners and non-parishioners.

This focus on the quality of everyday life inevitably brings the churches and those involved in church missions—clergy, lay ministers and other employees alike—into intimate contact with those they are directed to serve. These very groups—the oppressed and disadvantaged—have traditionally been the sources of outcry against oppression and the financial and governmental status quo and have been sporadically the sources, among others, of calls to revolt. By their ministries, then, churches in the United States, as part of their religious mission, have acquired and continue to acquire intimate knowledge of those groups most likely at one time or another to become targets of government investigations designed either to gain information concerning the commission of crimes or, as some would argue, in recent years, to "harass and intimidate political dissidents, including the antiwar movement, the Native American movement, the Black movement, the trade-union movement, the Roman Catholic peace movement, the feminist movement" and others.[24]

Thus, whether for legitimate investigatory purposes or for purposes of harassment, interest by the government in those working with the poor and oppressed has grown, and church workers, because of their intimacy with such groups, may expect to

21. *Everson* v. *Board of Education*, 330 U.S. 1, 18.

22. *Walz* v. *Tax Commission*, 397 U.S. 664, 669.

23. *Reynolds* v. *United States*, 98 U.S. 145, 164.

24. Resolution on Grand Jury Abuse, adopted by the Governing Board of the National Council of the Churches of Christ in the U.S.A. (May 5, 1977).

receive increasing official attention in the form of grand jury subpoenas. First Amendment rights against compelled testimony are seemingly not recognized by the courts and may thus need to be won through political effort. Unless those involved in church missions aggressively seek to exercise the rights guaranteed to them by the Constitution, they will be compelled to disclose confidential information to the great detriment of religious freedom in this society.

NO RECOGNIZED PRIVILEGE

While there is, of course, a recognized (usually by statute) priest-penitent privilege against compelled testimony, this protects only privileged confidential communications received by members of the clergy concerning matters of conscience and confession, and except in those cases clearly within the narrow confines of the privilege, there is at present no clearly recognized privilege against compelled testimony rooted in the First Amendment. Thus, in *Branzburg* v. *Hayes*, the Supreme Court held that a newspaper reporter is not protected from inquiry by a grand jury concerning his confidential sources of information. There the Court remarked:

> . . . neither the First Amendment nor any other constitutional provision protects the average citizen from disclosing to a grand jury information that he has received in confidence.[25]

This seeming denial of First Amendment press rights has recently served as a basis for a denial of First Amendment religious rights by lower courts. It serves as a warning that the Supreme Court may view with disfavor any attempt to reduce the scope of inquiry by a grand jury based upon a claim of First Amendment religious privilege.

Thus while the courts have shown a high degree of awareness of constitutional limitations on the use of subpoenas to churches and those performing church ministries, they generally have not been willing to translate this awareness into permission for church workers to refuse to testify based upon invocation of a First Amendment religious privilege. While recognizing that sincere claims, even if based on unusual beliefs, must be carefully weighed, the courts, in purportedly applying a "balancing" test, have avoided application of the privilege by weighing governmental need and other facts more heavily than the constitutional mandate.

In *People* v. *Woodruff*, for example, the New York Appellate Division denied a claim of privilege by a member of a so-called cult who said that "the compulsion of her to testify will do violence to her religious principles."[26] The court held that, since the charges being investigated were serious, and the questions being asked were material, free exercise would have to be subordinated. And, in *In re Subpoena*, the court denied the existence of a privilege primarily on the ground that the church employees in question were engaged in work which "while perhaps performed under spiritual auspices, is primarily in the nature of social work."[27]

Thus despite history, despite Supreme Court decisions recognizing and applying that history to enforce religious freedom, and despite lower courts' philosophical recognition of the constitutional infirmity of sub-

25. *Branzburg* v. *Hays*, 408 U.S. 665, 682.

26. *People* v. *Woodruff*, 272 N.Y.S.2d 786, 788–89.

27. *In Re Subpoenas*, 77 Cr. Misc. #45586 (2/8/77) at 10.

poenas to church personnel, churches are faced at this moment with the probability of an increasing wave of governmental subpoenas designed to tap their knowledge of the activities of society's unfortunates. This probability is based in part on the almost complete lack of protection afforded those engaged in such ministries by either the lower courts or prosecutorial restraint.

A PROPOSAL

How should churches respond to such subpoenas? Based on the case law and history discussed above and the nature of the churches' ministries, strong argument must be made that any subpoena served upon those pursuing church work must meet the following minimum requirements in order to pass constitutional muster and in order to be compelling to those whose testimony is sought:

> The government must clearly show that there is probable cause to believe that the church worker possesses information which is directly relevant to a specific probable violation of law.
>
> The government must clearly show that the information it seeks cannot be obtained by alternative means, that is, from sources other than the church or its worker.
>
> The government must clearly demonstrate a compelling and overriding need for the information.

This minimal showing by the government is, of course, not the ordinary test required when the government seeks testimony. However, we are not dealing here with ordinary cases but with those that admittedly involve the First Amendment. These cases should not be viewed solely as dealing with the power and function of a grand jury, or with the reach of compulsory process against assertions of common-law privileges, but as cases involving the free exercise of religion. Indeed when viewed in proper context, it is little to ask that the government meet the minimal tests outlined above before being permitted to intrude on ground considered, except in extraordinary cases, inviolate for as long as this nation has existed.

This view follows from the premise that the religiously defined mission of the churches cannot be fulfilled without the confidence and trust, so hard to achieve, and yet so easy to lose, of those the churches are reaching out to help. If church personnel become sources of information for the government concerning those groups they are mandated by their religious precepts to seek out and aid and thus become, in the view of the disadvantaged, arms of governmental investigatory bodies, then the churches' missions will fail, to the great detriment of all society.

Indeed, the probability of distrust and the loss of mission is so high that it almost need not be stated, for it is inevitably true that without trust there can be no significant interaction between those seeking to aid and those in search of such aid. Further, it is not only religious values that are at stake, but perhaps the survival of our form of society. Without such work on the part of the churches in America, those receiving such aid may well have nowhere to turn except to the streets and violence. This too must enter into the balancing which requires that the government meet at least the tests described above before being permitted to endanger such vital input into both the spiritual and temporal health of the nation.

While the priest-penitent privilege is undoubtedly well-founded and of recognized constitutional dimension, it does not go far enough. Communi-

cations concerning matters of conscience and confession, while of course central to church-communicant relations, do not and cannot constitute the only areas to be considered inviolate. Social ministries also are deeply enmeshed in matters of morality and conscience and are a necessary function of the churches. Indeed, so important are the social ministries to the practice of religion that to force testimony concerning such ministries will do as much damage to free exercise as would forced testimony concerning matters learned in the confessional.

Just as "Secrecy is the essence of penance,"[28] so is secrecy the essence of the churches' modern-day ministries. Just as to deny secrecy to the confessional would be "to declare that there shall be no penance,"[29] so to deny secrecy to such ministries today would be to declare that there shall be no such ministries. Thus, testimonial privilege for those engaged in modern-day missions is as vitally necessary to today's churches as testimonial privilege based on the confessional. In the form of the three-part test described above, it must be urged upon the courts and government as strongly as possible, and, indeed, if not recognized by those seeking such testimony, those whose testimony is sought may well be faced with a decision based upon individual conscience as to whether or not to violate their trust under court compulsion, or as have their brothers and sisters before them, to face a contempt citation and possible fine or incarceration.

28. *People* v. *Phillips*, 1 West.L.J. 109, reprinted in 1 Cath. Law 199, at 207.

29. Ibid.

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State and Local Regulation of Religious Solicitation of Funds: A Constitutional Perspective

By ROBIN B. JOHANSEN and SANFORD JAY ROSEN

ABSTRACT: In recent years, state and local governments have increasingly sought to regulate solicitation on behalf of religious groups. Predictably, these governments are using existing laws and also enacting new laws for this purpose. Such tactics can be seen as part of a growing effort by government to regulate and monitor the actions of all religious groups. Implicit in this growing trend toward regulation of religious activities is the arrogation by state and local officials and lawmakers of the authority to decide what is "religion" and therefore exempt from regulation. Particularly significant is the impact of statutory regulation on the fundraising and other activities of both traditional and nontraditional churches. The increased regulation of religious solicitation touches a longstanding tension in American life involving the separation of church and state, and invokes three central themes: our money, our privacy, and our faith. Not surprisingly, the courts are now being asked to review the constitutionality of statutes that regulate religious solicitation and are being asked to balance the interests involved. Most laws and regulations currently used to regulate religious solicitation are constitutionally infirm. They are either too vague to protect against arbitrary or capricious enforcement by public officials, or they place officials in the position of deciding what is religious and what is secular activity. The use of traditional time, place, and manner regulations—and sparing use of the existing criminal fraud law—are better means of curbing abuse in religious solicitation, and will prevent dangerous blurring of the boundary between church and state.

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THE CITY of Los Angeles ordered the Due Process of Law Fund of the National Council of Churches of Christ in the U.S.A. to cease and desist a direct-mail campaign soliciting contributions within the City of Los Angeles in December 1977.[1] Earlier that year the Commonwealth of Massachusetts had notified the National Council of Churches' Due Process of Law Fund that it was subject to Massachusetts laws governing charitable solicitation. Following an exchange of letters, the Commonwealth determined that the purpose of the Fund's direct-mail campaign was not "religious" and therefore the Fund must register with the Commonwealth and file an annual financial report.[2] The Fund encountered similar difficulties in Minnesota.

These attempts to regulate charitable solicitation by one of the nation's largest and most respected religious organizations are not unique. Rather, they are part of a growing effort on the part of state and local governments to regulate solicitation on behalf of religious groups. Indeed, they are part of a more general effort by government to regulate and monitor the actions of religions and religious groups, which includes increasing use of grand jury investigations, Internal Revenue Code audits, and imposition of receiverships.

At the heart of this increased regulation, as it involves religious solicitation, is a disturbing assertion by state and local officials and lawmakers of the power to determine which groups and activities are truly religious for purposes of exempting them from regulation. This assertion of authority is quiet. It seldom receives much public attention. It is often done in the guise of implementing statutes that apparently deal with matters of an entirely secular nature. But it is having a significant effect on the fundraising and other activities of traditional and nontraditional churches alike. And it is increasingly reaching the courts for review.

The increased interest in regulating religious groups has its origins in two relatively recent phenomena. State and local officials have always had an interest in protecting their citizens from defrauding (and often defrocked) "evangelists." This interest has intensified, however, with the growth of less traditional churches, some of them bizarre cults or sects and some of them simply small groups of worshippers with their own systems of belief. As both types of groups proliferate, they often become highly visible, taking their witness into the streets and knocking on the public's doors. These groups lack the comfortable familiarity of recognized religions and, to many local and state officials, it must seem impossible to predict which of them are benign and which are quite literally instruments of the devil.

A second phenomenon springs from the conduct of churches themselves. Over the last two or three decades, traditional religious groups, such as the United Methodist Church and the National Council of Churches have become increasingly active and vocal concerning social issues. Many state and local officials, like those in Los Angeles and Massachusetts

1. Letter from Fern Jellison, General Manager, Los Angeles Social Services Dept. to Lucino Walker, Jr., Assoc. Gen. Secretary, National Council of Churches of Christ in the U.S.A., December 8, 1977.

2. Letter from Susan K. Sloane, Assistant Attorney General and Director, Division of Public Charities, Commonwealth of Massachusetts, to Dean M. Kelley, Division of Church and Society, National Council of Churches of Christ in the U.S.A., December 29, 1977.

mentioned above, view these activities as secular and therefore subject to regulation. The social gospel has not yet reached these officials and perhaps it never will. At any rate, they persist in the belief that they not only have the authority but bear the responsibility for differentiating between activities that are religious and those that are secular.

The problem reveals a fundamental tension in the American sociopolitical system. Chastened by firsthand experience with theocracy, many of the colonies had attempted to separate church and state. By the Revolutionary era, the feeling was so strong that the matter was the first issue addressed in the Bill of Rights.[3] On the other hand, we remain a religious nation. The central role of religion in the national life makes confrontation—and sometimes collision—inevitable between church and state.

This is particularly the case with laws that regulate charitable solicitation. The very topic invokes three central themes in American life: our money, our privacy, and our faith. Characteristically, we leave it to the courts to sort it all out in the end. Increasingly, the courts are being asked to review the constitutionality of a variety of statutes regulating religious solicitation. They have their work cut out for them, for there presently exists a bewildering network of state and local statutes governing charitable solicitation. And many of these statutes almost invariably collide with First Amendment principles protecting freedom of speech and of religion.

At a minimum, these statutes require organizations wishing to solicit contributions in a particular locale to register with a governmental agency and report the amount of contributions received.[4] Many state and local regulations impose additional and far greater burdens on charitable solicitation, such as limitations on amounts expended on solicitation, bonding and filing fees, and even requirements of fingerprinting and photographing of volunteers.[5] Many of the regulations fail to state whether they cover religious organizations at all or they leave substantial doubt as to whether they cover certain types of fundraising activities by religious groups. Quite apart from these problems, the very quantity and diversity of the regulations impose a cumulative and crushing burden, especially on religious organizations that operate on a nationwide basis.

This article examines the constitutional validity of charitable solicitation ordinances as applied to religious organizations. It also presents an alternative and constitutionally permissible means of regulating solicitation by religious bodies through use of existing criminal fraud statutes and carefully drawn limitations on the time, place, and manner of solicitation.

A PRELIMINARY REVIEW OF CHARITABLE SOLICITATION LAWS

In general, the constitutionality of the present state and local network

3. The First Amendment provides in pertinent part: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press. . . ."

4. For a survey of state laws regulating charitable solicitation, see *The Philanthropy Monthly, Survey of State Laws Regulating Charitable Solicitation* (Looseleaf, 1978 Rev.).

5. For a summary of requirements imposed by local ordinances in the Chicago area alone, *see* Appendix B to the Coalition of National Voluntary Organizations brief *amicus curiae* in *Village of Schaumburg* v. *Citizens for a Better Environment*, No. 78-1335 (Supreme Court of the United States, October Term, 1978).

of charitable solicitation laws depends to a great degree on the extent to which such laws burden the exercise of First Amendment freedoms of expression and association. When applied to religious organizations, such laws also must pass muster under the First Amendment's protection of the free exercise of religion and its prohibition against establishing religion. Thus, courts must examine the burdens imposed both singly and cumulatively by such statutes to determine whether they prohibit the free exercise of religion, abridge freedom of speech or association, or so entangle the state in church affairs that they violate the establishment clause.

It is difficult to assess the cumulative burdens imposed by the present patchwork of charitable solicitation statutes nationwide. No comprehensive index exists covering both state and local regulations. And even if it did, the statutes themselves are often so ambiguous about their coverage as to make it virtually impossible to know whether they apply to religious solicitation or not.

A brief review of state statutes governing charitable solicitation provides some idea of the cumulative burdens they impose.[6] Three states—Nevada, New Hampshire and Virginia—do not exempt religious organizations in any way from their registration, reporting and spending requirements. New Hampshire's regulations are particularly onerous, with a $35 initial fee and a 15 percent ceiling on amounts that may be expended on solicitation costs.

Fourteen other states regulate solicitation by certain types of religious organizations or for certain purposes.[7] Viewed as a whole, the statutes display virtually no common philosophy or approach. For example, Maine recently amended its statute to exempt religious organizations unless they solicit funds by means of advertisements, personal contacts, mailings or telephone contacts. By contrast, Virginia exempts any organization with a local, registered branch that solicits funds from without the state by telephone, mail or media advertising. Hawaii, Oklahoma, Oregon and Wisconsin exempt religious organizations if they are incorporated. Connecticut and North Carolina exempt religious organizations that do not use professional solicitors. Iowa and Nebraska exempt church groups so long as they solicit only within the solicitors' home county or adjoining county. Minnesota and South Carolina gear their exemptions to the percentage of funds solicited from existing members of the church. And Rhode Island exempts religious groups so long as "no part of the net income inures to the direct benefit of any individual," a criterion that is either hopelessly vague or, if taken literally, virtually impossible to fulfill.

State solicitation statutes represent only a very small proportion of the regulatory patchwork that governs charitable solicitation. Far more common—and at least as confusing—are the local ordinances governing such solicitation.

The Supreme Court of the United States will hear argument this term on a case arising in Schaumburg, Illinois challenging a charitable solicitation statute.[8] The particular issue

6. The following data concerning state solicitation restrictions are taken from *The Philanthropy Monthly, Survey of State Laws Regulating Charitable Solicitation* (Looseleaf, 1978).

7. The fourteen states are: Connecticut, Hawaii, Iowa, Kentucky, Maine, Maryland, Minnesota, Nebraska, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, and Wisconsin.

8. *Village of Schaumburg, et al.*, v.

in that case is relatively narrow: whether the Village of Schaumburg may refuse permission to solicit to organizations whose expenses for solicitation equal more than 25% of the contributions they receive. However, the case may have a significant impact on many of the statutes that regulate charitable solicitation otherwise.

The Schaumburg ordinance is typical of many solicitation ordinances in that its coverage is unclear. The ordinance purports to regulate solicitation by charitable organizations. It defines "Charitable organization" as follows:

> [A]ny benevolent, philanthropic, patriotic, not-for-profit, or eleemosynary group, association or corporation, or such organization purporting to be such, which collects and solicits funds for charitable purposes.[9]

With perfect circulatory, the ordinance defines charitable purpose as:

> Any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose.[10]

Most religious organizations engage in charitable or philanthropic activities. To fund such activities, many religious organizations rely heavily on the sort of personal solicitation that the Schaumburg ordinance seeks to regulate. Yet the ordinance is silent on its face as to whether religious groups are subject to its coverage.

The courts and the Village could not agree on whether the Schaumburg ordinance covers solicitation by religious groups. The attorney for the Village believes that the ordinance does not apply to religious or political groups. The United States Court of Appeals for the Seventh Circuit questioned that assertion, stating that such an exclusion "seems inconsistent with the broad definition involved."[11]

This kind of uncertainty can cripple a broad-based national or even statewide fundraising campaign. To be safe from legal liability, every local ordinance must be collected and scrutinized. Religious fundraisers must determine first, whether they are subject to regulation under each statute and, second, whether such regulation is constitutionally permissible. If it is not, the group must then decide whether to acquiesce in the regulation, notwithstanding the constitutional claims, or to litigate the matter. If it chooses to litigate the matter, it may even have to violate the statute in order to get a court test.[12] Many groups simply decide not to bother with solicitation at all.[13]

The President of the American Association of Fund Raising Counsel, Inc., described the enormous burden placed on all charitable organizations by these statutes. In testimony before a House of Representatives' subcommittee considering federal regulation of charitable solicitation, John J. Schwartz stated:

> Just to keep aware of the new laws being introduced in many of our States and municipalities, and the amendments to existing legislation is a mam-

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Citizens for a Better Environment, et al., No. 78-1335 (October Term, 1978).

9. Schaumburg Village Code, Ch. 22, §22-19.

10. Ibid.

11. *Citizens for a Better Environment* v. *Village of Schaumburg*, 590 F. 2d 220, 224, n. 5 (7th Cir. 1978).

12. *See, for example, Younger* v. *Harris*, 401 U.S. 37 (1971); *Samuels* v. *Mackell*, 401 U.S. 66 (1971); *Perez* v. *Ledesma*, 401 U.S. 82 (1971).

13. The Kent State Due Process Fund, which is operated by the United Methodist Church's Board of Church and Society, stopped its direct mail solicitation in Los Angeles after it was ordered to cease and desist.

moth job. And the compliance is costly for the charities. This compliance and monitoring necessarily takes away the program dollars that go to the philanthropic causes and funnels them into additional administrative costs.[14]

The drain on charitable fundraising caused by the proliferation of these statutes comes at a time of decline in private giving. Individual giving decreased by about 15 percent between 1960 and 1972.[15] One key indicator of this decline, "net contributions," that is, total contributions less the reduction in federal income taxes to which contributors are entitled, declined from 3.5 percent of adjusted gross income in 1956 to 2.1 percent in 1970—a 60 percent decline.[16] For religious organizations, the decline is particularly serious because they are more dependent than other charitable groups on gifts from low-income donors, who are hardest hit by rising inflation.[17]

As the foregoing demonstrates, the diversity of charitable solicitation statutes and the ineptness with which they are drawn seriously impair religious fundraising. That cumulative burden, in itself, might be enough to render them unconstitutional in the same way that the Supreme Court has declared certain forms of state regulation of interstate commerce unconstitutional.[18] But the various constitutional problems raised by the application of charitable solicitation statutes to religious solicitation can only be understood by analyzing a representative statute in light of Supreme Court rulings concerning the relationship between church and state.

THE CONSTITUTIONAL VALIDITY OF STATE STATUTES AND LOCAL ORDINANCES GOVERNING CHARITABLE SOLICITATION

Charitable solicitation statutes and ordinances come in a variety of forms of varying impact on solicitation by religious groups. Some exempt religious solicitation altogether. Others reserve the right to determine whether the solicitation is truly for a religious purpose. And some even differentiate between solicitation by recognized denominations (exempt from regulation) and newer or less well-known groups (not exempt).

The City of Los Angeles has long had an ordinance governing charitable solicitation.[19] Because many of its provisions are fairly common, and because the ordinance has been the

14. Hearings on H.R. 41 before the Subcomm. on Postal Personnel and Modernization of the House Comm. on Post Office and Civil Service, 95th Cong. 1st Sess. (1977) (Statement of John J. Schwartz).

15. *Commission on Private Philanthropy and Public Needs, Report—Giving in America—Toward a Stronger Voluntary Sector* 70–71 (U.S. Dept of the Treasury, 1975).

16. Ibid, 71.

17. Morgan, Dye & Hybels, "Results from Two National Surveys of Philanthropic Activity," in I Research Papers Sponsored by the Commission on Private Philanthropy and Public Needs—History, Trends and Current Magnitudes 208 (U.S. Dept. of the Treasury, 1977).

18. See, for example, *Bibb* v. *Navajo Freight Lines, Inc.*, 359 U.S. 520 (1959); *Southern Pacific Co.* v. *Arizona*, 325 U.S. 761 (1945). The difficulty with this analysis, of course, is that the Constitution gives Congress the exclusive power to regulate commerce. U.S. Const., art. I, §8. Congress, however, does not have exclusive jurisdiction to regulate charitable solicitation. On the other hand, the Commerce Clause itself may provide a basis for attacking charitable solicitation statutes. To the degree that fundraising appeals cross state lines, or have a substantial impact among the states, they may very well fall within the meaning of interstate commerce not subject to state regulation. *See* Text discussion infra at nn. 80 and 81.

19. Los Angeles Municipal Code §44.01.

subject of considerable litigation reaching to the Supreme Court of the United States, the ordinance serves as a useful prototype for analysis.[20]

The Los Angeles ordinance

The Los Angeles solicitation ordinance is based on a licensing scheme revolving around the issuance of an information card. This card must be displayed or read to all persons from whom funds are solicited and failure to display the card is punishable as a misdemeanor. In order to obtain an information card, one must file with the Los Angeles Department of Social Services a Notice of Intention to Solicit containing detailed information about the purpose of the solicitation, how the campaign will be conducted, and how the funds will be spent, as well as a detailed reporting of all contributions collected by the group within the calendar year and the uses to which they were put.[21]

The Los Angeles Department of Social Services, in turn, is authorized to investigate the allegations contained in the Notice, presumably for the purpose of determining whether or not to issue an information card.[22] The exact purpose of the investigation is not at all clear, however, since the ordinance contains no guidelines for the approval or denial of an information card, nor does it state whether the Department is authorized to deny approval at all. In addition to its investigatory powers, the Department is authorized to "inspect and make copies of all books, records and papers" of the applicant.[23]

Following a solicitation campaign or upon demand by the Department, solicitors must file a detailed report of contributions received and funds expended during the solicitation, as well as "exactly for what uses and in what manner all such contributions were or are to be disbursed or distributed."[24]

The ordinance distinguishes between solicitors and promotors, for whom even more detailed regulations exist.[25] A promoter is one who is paid to solicit contributions, unless he or she is an officer or employee of a social service agency endorsed by the Department. The Department will endorse such agencies if they can prove compliance with certain bookkeeping and accounting procedures, that they have not paid out more than 15 percent of any funds collected within Los Angeles for expenses of solicitation, that their declared purpose is charitable or philanthropic and that they have performed their designated work

20. In 1945, two religious groups challenged the Los Angeles ordinance, which was at the time virtually the same as it is today. The challengers, the Gospel Army and the Rescue Army, apparently fell within the statute. They attacked the charitable solicitation ordinance solely on First Amendment religious freedom grounds, taking the matter all the way to the Supreme Court of the United States. Their attack failed due to the peculiar procedural posture of the case. The substantive law on the subject was not reached by the Supreme Court. *Gospel Army v. Los Angeles*, 331 U.S. 543 (1947); *Rescue Army v. Municipal Court*, 331 U.S. 549 (1947). The ordinance has recently been declared unconstitutional in *Perlman* v. *Municipal Court*, No. C 228706 (L.A. County Superior Court, March 8, 1978) appeal pending Civ. No. 54725 (Court of Appeal for the State of California Second Appellate District, Division One.)

21. The Notice must contain detailed information about the purpose and manner of solicitation, and the disposition of funds collected. Los Angeles Municipal Code §44.05.

22. Los Angeles Municipal Code §44.03(a).

23. Los Angeles Municipal Code §44.03(b).

24. Los Angeles Municipal Code §44.14.

25. Los Angeles Municipal Code §44.19(1) through (9).

faithfully. If such a showing is not made, a promoter must post a $5,000 bond and convince the Department that he or she is of good moral character and reputation, financially responsible for expenses incident to solicitation, and intends to conduct his or her business "fairly and honestly." The promoter's license may be revoked if the Department finds, after a hearing, that the promoter has conducted business in an unfair, unjust, inequitable or fraudulent manner.

In a separate, uncodified section, the Department lists additional standards which, it states "govern the conduct of all charity fund raising." These standards limit fundraising expenditures to 20 percent of total receipts and require the establishment of a local organization with a minimum eleven-member board.[26]

Unlike many other charitable solicitation statutes, the Los Angeles ordinance expressly exempts "solicitations made solely for evangelical, missionary or religious purposes."[27] However, the Department is authorized to investigate such solicitations if they are made:

> [I]n such manner as in the opinion of the Department is calculated to give or may give the impression to the person or persons solicited in any such solicitation or to the public that the purpose of any such solicitation is in whole or in part charitable.[28]

The Department is also authorized to publicize its investigative findings "in such manner as it may deem best to advise the public of the facts of the case."[29]

The ordinance does not define "evangelical, missionary or religious purposes." It defines "charitable" to include "the words philanthropic, social service, benevolent, patriotic, either actual or purported." The threshold question, then, is whether or not a group is soliciting for a religious purpose, a determination presumably left to the Department. Even if the Department finds a religious purpose, it may still investigate if it finds that the public may get the impression that the purpose is "in whole or in part charitable." As will be seen, this provision is so hopelessly vague that it violates the due process clause of the Fourteenth Amendment to the United States Constitution.

As noted earlier, the Los Angeles ordinance has not gone unchallenged. It reached the Supreme Court of the United States in 1947 in companion cases brought by two religious groups, the Gospel Army and the Rescue Army.[30] The Court, however, never decided the constitutionality of the ordinance because the cases were dismissed on purely procedural grounds. Thus, the highest court to discuss the ordinance on the merits was the California Supreme Court, which upheld the ordinance.[31] Although that decision still stands, thirty years have passed since it was rendered, during which time significant changes occurred in First Amendment law. Those changes, coupled with the fact that the Supreme Court of the United States questioned the California court's interpretation of the statute, leaves

26. The uncodified standards deal, in addition, with door-to-door solicitation, the use of children, hours of solicitation, and unordered merchandise.

27. Los Angeles Municipal Code §44.16.

28. Ibid.

29. Ibid.

30. *Gospel Army* v. *Los Angeles*, 331 U.S. 543 (1947); *Rescue Army* v. *Municipal Court*, 331 U.S. 549 (1947).

31. *Gospel Army* v. *Los Angeles*, 27 Cal. 2d 232, 163 P. 2d 704 (1945); *Rescue Army* v. *Municipal Court*, 28 Cal. 2d 460, 171 P. 2d 8 (1946).

the decision quite vulnerable to constitutional attack on several grounds.[32] The strongest of these is, of course, the First Amendment protections of freedom of speech and religion. In addition, as will be shown below, the statutes may also be challenged on Fourteenth Amendment due process and equal protection grounds, Fourth Amendment search and seizure grounds as well as possible violations of the Commerce Clause.

Solicitation statutes and the First Amendment

The First Amendment to the Constitution of the United States prohibits governmental interference with religion in two ways:[33]

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

The first of the two religion clauses has become known as the Establishment Clause. Although its primary thrust is to prohibit the establishment of a state religion, it is the source of a series of court decisions forbidding excessive government entanglement with religious groups. As demonstrated below, these decisions provide strong support for challenging the application of solicitation statutes to religious organizations.

The second of the two religion clauses is known as the Free Exercise Clause. It serves as the primary means of attacking regulation of charitable solicitation.

Additionally, religious as well as secular organizations rely heavily on the Free Speech Clause of the First Amendment as a basis for challenging solicitation statutes:

> Congress shall make no law . . . abridging the freedom of speech or of the press. . . .

Charitable solicitation statutes often impinge on all three First Amendment guarantees.

They restrict the free exercise of religion for many groups that depend on charitable contributions from the public to survive. For example, many statutes, like the Los Angeles ordinance, deny permits to groups that spend over a certain amount on fundraising or administrative expenses. These groups are most likely to be fledgling churches without a strong supporting membership.[34]

Likewise, charitable solicitation statutes, with their detailed reporting requirements, often require an unacceptably high degree of state entanglement with church affairs.

Finally, charitable solicitation statutes may act as prior restraints on a church group's freedom of speech. Many churches combine proselytizing with door-to-door fundraising to bring their message to the people. Charitable solicitation statutes may severely restrict or prohibit both activities, particularly if they set limits on amounts that may be spent on solicitation expenses.

The Supreme Court of the United States has had relatively few occasions in which to review the First Amend-

32. The Supreme Court of California upheld the ordinance on the basis of an interpretation so strained that the Supreme Court of the United States devoted five pages on review to questioning whether the California court really meant what it said. *Rescue Army* v. *Municipal Court*, *supra*, 331 U.S. at 580–84.

33. The First Amendment is made applicable to the states (and local government) by virtue of the Fourteenth Amendment's due process clause; See, for example, *Schneider* v. *Irvington*, 308 U.S. 147, 160 (1939).

34. This point was well stated in Congressional hearings on the subject of regulating charitable solicitation: (Hearings on H.R. 41, note 14, *supra*,) (Statement of John J. Schwartz).

ment dangers posed by such statutes. The following overview of Supreme Court decisions illustrates the balancing process used by the Court in reviewing solicitation statutes. It also examines other First Amendment cases for principles applicable to the issue of regulating charitable solicitation.

Free exercise of religion

In 1940, the Supreme Court of the United States decided *Cantwell* v. *Connecticut*,[35] which remains the leading case concerning religious solicitation. Cantwell, a Jehovah's Witness, was convicted of solicitation of money for alleged religious, charitable, or philanthropic causes without approval from the Secretary of Public Welfare of Connecticut. The Supreme Court declared the solicitation statute unconstitutional as construed and applied, stating that regulation of solicitation may not involve any religious test, nor may it "unreasonably obstruct or delay the collection of funds." The vesting of power in the licensing officer to decide if a cause is a religious one is censorship of religion, "a denial of liberty protected by the First Amendment and included in the liberty which is within the protection of the Fourteenth."[36]

The Court recognized the State's interest in protecting its citizens from fraudulent solicitation:

> Without a doubt a state may protect its citizens from fraudulent solicitation by requiring a stranger in the community, before permitting him publicly to solicit funds for any purpose, to establish his identity and his authority to act for the cause which he purports to represent. The state is likewise free to regulate the time and manner of solicitation generally, in the interest of public safety, peace, comfort or convenience.[37]

The Court went on to point out that its decision in no way prevented a state from protecting its citizens against fraud under both penal laws and the limited identification requirements referred to above.[38]

Taken by itself, *Cantwell* contains the means by which to declare unconstitutional all but the most carefully drawn solicitation statutes. The Los Angeles ordinance, for example, does not measure well against the *Cantwell* standards. As noted earlier, the City of Los Angeles interpreted its ordinance to include solicitation by the National Council of Churches' Due Process of Law Fund. The purpose of the solicitation, according to the City, was not religious. Thus, City officials applied a religious test, seemingly in direct violation of *Cantwell*.

Similarly, *Cantwell* clearly delimits the constitutionally permissible means of regulating charitable solicitation in order to protect the public from fraud. Under *Cantwell*, local governments may require the would-be solicitor "to establish his identity and his authority to act for the cause which he purports to represent."[39] Governments may also regulate the time, place and manner of solicitation generally, as they may with any form of protected speech.[40] Finally, *Cantwell* makes clear that actual fraud may, of course, be punished as a criminal violation.[41] The Los Angeles ordinance appears to exceed those constitutionally prescribed limits on regulation.

Seemingly, the *Cantwell* decision laid the whole controversy sur-

35. 310 U.S. 296 (1940).
36. 310 U.S. at 305.
37. 310 U.S. at 306–7.
38. Ibid.
39. 310 U.S. at 306.
40. Ibid.
41. 310 U.S. at 306.

rounding solicitation statutes to rest back in 1940.[42] But it continues to flourish, and the explanation must be sought in the balancing test used by the Supreme Court since that time, as well as the remarkable persistence of state and local governments in enacting these statutes. Because the Court invariably balances the interests of the State in preventing fraudulent solicitation against the restriction of First Amendment freedoms, no single court opinion will cover every statute.[43] Thus, many statutes remain on the books until they are challenged in court. Moreover, state and local law-making bodies constantly reword their statutes in attempts (often futile) to protect them from constitutional challenge. Finally, the very proliferation of these statutes inevitably means that many unconstitutional provisions survive simply because religious and charitable groups cannot afford to attack them in the courts.

The Supreme Court has decided only a handful of additional Free Exercise of Religion cases that bear directly on solicitation by religious groups. In *Murdock* v. *Pennsylvania*,[44] the Court overturned a local license tax as applied to canvassers selling religious tracts. In overturning the ordinance, the Supreme Court stated:

> The power to tax the exercise of a privilege is the power to control or suppress its enjoyment. [citation omitted] Those who can tax the exercise of this religious practice can make its exercise so costly as to deprive it of the resources necessary for its maintenance.[45]

Murdock is particularly applicable to solicitation statutes that impose filing fees or bonding requirements, no matter how small. The cumulative burden of multiple filing fees can effectively crush a statewide or national fundraising campaign.

Another issue concerns the right of local officials to determine whether solicitation is made for a religious purpose. Since *Cantwell*, the Supreme Court has repeatedly insisted that the government cannot examine religious belief as part of its exercise of the police power. While these cases did not arise in a solicitation context, they strengthen the churches' position that licensing authorities may not issue or deny permits based upon their own assessment of religious purpose.

In *United States* v. *Ballard*,[46] the Court upheld a jury instruction which directed the jury to ignore the truth or falsity of defendants' religious beliefs. The defendants had been convicted of conspiring to use and for using the mails to defraud. The trial court had instructed the jury that the issue was the defendants' good faith, not the truth or falsity of their beliefs. The defendants were founders of the "I AM" movement, who claimed the words of St. Germain came through the mouth of one of them, and that they were all "healers." The Court of Appeals reversed, saying that a

42. *Cantwell* was only one of many cases brought by the Jehovah's Witnesses. Others were: *Murdock v. Pennsylvania*, 319 U.S. 105 (1943); *Follett v. McCormick*, 321 U.S. 573 (1944); *Martin v. City of Struthers*; *Largent v. Texas*, 318 U.S. 418 (1943) (permit requirement voided because of unbridled administrative discretion); *Jamison* v. *Texas*, 318 U.S. 413 (1943); and *Jones v. Opelika*, 319 U.S. 103 (1943).

43. The balancing test is clearly weighted in favor of First Amendment interests: "The essence of all that has been said and written on the subject is that only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion." *Wisconsin v. Yoder*, 406 U.S. 205, 214–15 (1972).

44. 319 U.S. 105 (1943).

45. 319 U.S. at 112.

46. 322 U.S. 78 (1944).

scheme to defraud necessarily included false representations, therefore proof of the truth of the belief was needed to acquit. The Supreme Court reversed and upheld the trial court, holding that freedom of religion barred any inquiry into the truth or falsity of belief. All religions are entitled to protection under the Constitution, the Court stated, regardless of their beliefs.[47]

The establishment clause

The Establishment Clause of the First Amendment embodies the principle of separation of church and state. For present purposes, the Establishment Clause draws into question many solicitation ordinances because they involve the government too deeply in church affairs. The Supreme Court of the United States has interpreted the Establishment Clause as a prohibition of excessive government entanglement in church affairs. Here there is no balancing of competing interests, only careful scouting into the degree of entanglement.

Perhaps the most egregious intervention in church affairs occurs through use of statutes that authorize states to place organizations in receivership if they violate solicitation regulations.[48] Other common provisions require detailed reporting and bookkeeping procedures, authorize extensive investigation of church groups by state officials, and even require unlimited access to a group's books and records. Finally, as has been noted, many statutes restrict the proportionate amount of contributions that may be spent on fundraising. All of this amounts to heavy state entanglement in church affairs.

Most Establishment Clause entanglement cases have dealt either with government financial aid to parochial schools or with religious activities within public schools. These cases have resulted in a three-part test for determining the validity of a particular statute under the Establishment Clause. First, to be valid the law must reflect a clearly secular legislative purpose. Second, it must have a primary effect that neither advances nor inhibits religion. Third, it must avoid excessive entanglement with religion.[49]

While most solicitation statutes will probably pass the first test—that of having a secular purpose—they run into significant difficulty with the second and third. The burdens which these statutes place on religious solicitation have already been discussed. Thus, they have a primary effect of inhibiting religion. The case law reveals that the third test, excessive entanglement, is a very strict standard indeed, and that the Supreme Court has been unwilling to tolerate even minimal involvement with a church's financial affairs. Thus, in discussing church tax exemptions, the Supreme Court noted that:

> [E]limination of the exemption would tend to expand the involvement of government by giving rise to tax evaluation of church property, tax liens, tax foreclosures, and the direct confrontations

47. See also *First Unitarian Church* v. *Los Angeles*, 357 U.S. 545, 548 (1958); *Joseph Burstyn, Inc.*, v. *Wilson*, 343 U.S. 495 (1952).

48. *See, for example*, Minn. Stat. §309.534-(1)(b). The California Attorney General has successfully used an unprecedented interpretation of the California Corporations Code to place the Worldwide Church of God in receivership, under California Corporations Code §9505.

49. *Committee for Public Education* v. *Nyquist*, 413 U.S. 756, 772–773 (1973) and cases cited therein.

and conflicts that follow in the train of those legal processes.[50]

Many solicitation statutes mandate just such involvement with church finances. For example, every statute that limits the amount that may be spent for fundraising presupposes a detailed inquiry into church expenses. And virtually every statute contains more or less detailed registration and reporting requirements laying a church's finances open to scrutiny by public officials.

Congress apparently shares the Supreme Court's concern over entanglement in church financial affairs. Unlike other organizations exempted from taxes under Section 501 of the Internal Revenue Code, churches and religious groups are not required to file annual "informational" tax returns showing income and expenditures.[51] Similarly, the census statute evinces some solicitude for separation of church and state.[52] State and local governing bodies, however, have not displayed the same sensitivity to the First Amendment in enacting their solicitation statutes.

The Supreme Court of the United States has addressed the question of government scrutiny of church records. In overturning a program which extended state assistance to secular programs in parochial schools, the Court emphasized the dangers inherent in such scrutiny:

> In the event that the total expenditures of an otherwise eligible school exceed this norm, the program requires the government to examine the school's records in order to determine how much of the total expenditures is attributable to secular education and how much to religious activity. This kind of state inspection and evaluation of the religious content of a religious organization is fraught with the sort of entanglement that the Constitution forbids. It is a relationship pregnant with dangers of excessive government direction of church schools and hence of churches.[53]

In *New York* v. *Cathedral Academy*,[54] the Court recently expanded on the prohibition against governmental evaluation of church records in order to separate the secular from the religious. In overturning a law which authorized reimbursement to parochial schools for expenses incurred in the administration and maintenance of state-required tests and records, the Court envisioned disputes over whether certain activities were secular or religious:

> The prospect of church and state litigating in court about what does or does not have religious meaning touches the very core of the constitutional guarantee against religious establishment, and it cannot be dismissed by saying it will happen only once.[55]

If the Court is bothered by the possibility of this kind of dispute, what will it say to the Los Angeles provision which authorizes investigation of a fundraising campaign if it might lead the public to believe that its purpose is in whole or in part charitable? Or how will it deal with a Massachusetts official requesting the articles of organization for the National Council of Churches in order to determine whether the group has a religious purpose or not?[56] It is difficult enough to distinguish

50. *Walz v. Tax Comm'n of the City of New York*, 397 U.S. 664, 674 (1970).

51. Internal Revenue Code §6033(a); but cf proposed IRS Form 990 requiring more detailed reporting by some religious bodies.

52. *See, for example*, 13 U.S.C. §§221(c), §225(d).

53. *Lemon v. Kurtzman*, 403 U.S. 602, 620 (1971). Accord *Bishop Ricardo Surinach v. Pesquera de Busquets*, F. 2d (No. 78-1527 1st Cir. July 25, 1979).

54. 434 U.S. 125 (1977).

55. 434 U.S. at 133.

56. See note 2 *supra*.

between religious and charitable purposes in one's own mind. Guessing whether the public will be misled is virtually impossible.

Examination of records, as noted earlier, is only one of the ways in which these solicitation statutes entangle church and state. Literally every statute that authorizes investigation of a religious applicant or that contains reporting requirements places the government in a supervisory capacity that may not withstand First Amendment scrutiny.

Infringements on freedom of speech

Aside from the infringements of religious freedom discussed above, many solicitation statutes violate the free speech clause of the First Amendment. Church groups that combine solicitation with any form of proselytizing may rely on secular First Amendment doctrine to challenge solicitation statutes.

State and local governments are free to regulate the time, place and manner of public speech in a way that they cannot regulate the contents of that speech.[57] Moreover, time, place and manner licensing systems or other regulatory systems that impinge on freedom of speech must carefully confine the exercise of discretion on the part of licensing officials.[58]

The Supreme Court recently set forth the permissible scope of such official discretion in *Hynes* v. *Mayor of Oradell*.[59] The ordinance in that case required persons wishing to solicit or canvass from door to door "for a recognized charitable cause or . . . to canvass or call . . . for a . . . political campaign or cause" to give the local police advance notice in writing. The ordinance was invalid because its coverage was unclear—for example, it did not define "recognized charitable cause"—and because it did not sufficiently specify what notice one must give in order to comply.[60]

The Los Angeles charitable solicitation ordinance and others like it suffer from the same infirmity. For example, the Los Angeles ordinance permits the Department of Social Services to include on an applicant's information card "any additional information obtained as shall in the opinion of the Department be of assistance to the public to determine the nature and worthiness of the purpose for which the solicitation is made."[61] The section places no restrictions on the source or reliability of the supplemental information which the Department may include. Nor does it set up any guidelines for determining what sort of information would be useful to the public in determining the "worthiness" of a particular cause.

The powers of the Department regarding promoters leave even more to the discretion of enforcing officials. Before issuing a permit, they must be satisfied that the applicant is "of good character and reputation," and that it "intends to conduct its business fairly and honestly."[62] The Department may

57. *Cox* v. *New Hampshire*, 312 U.S. 569 (1941).

58. Efforts to restrict religious solicitation at airports and other places of public concentration have resulted in a spate of "time, place and manner" cases. Because this article is addressed primarily to registration and reporting statutes, those cases are not treated here. *See* for example, *International Soc. for Krishna Consciousness, Inc.*, v. *Rochford*, 585 F. 2d 263 (7th Cir. 1978).

59. 425 U.S. 610 (1976).

60. 425 U.S. at 621.

61. Los Angeles Municipal Code §44.03 (d)(4).

62. Los Angeles Municipal Code §44.19 (5)(a).

revoke a license if it determines that a promoter has conducted its business in an "unfair, unjust, inequitable or fraudulent" manner.[63] None of these terms is defined. While the ordinance does provide for a hearing with notice prior to revocation, it sets no standards and in no way curbs the discretion of the Department in determining whether to revoke a license or not.

Finally, the provision which allows publicity of the Department's investigation of a religious solicitation if the solicitation "may give the impression" that it is for a charitable purpose is almost comically vague. This provision improperly requires that the Department distinguish between "religious" and "charitable." It also improperly allows the Department to determine whether "the public" might "get an impression," a standard so hopelessly vague that it can be used by administrators to mean almost anything.

An additional challenge to solicitation statutes arises out of traditional free speech law. It is limited, however, to statutes that refuse permits to solicit to groups that spend more than a certain percentage on fund-raising. The argument is based on the Supreme Court's decision in *Buckley* v. *Valeo*,[64] which held, inter alia, that restrictions on campaign expenditures could not be justified even by a state interest in curbing political corruption. The Court described the effect of such restrictions in terms that might apply equally to religious solicitation:

> A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.[65]

There is, of course, a significant difference between the absolute limitations on expenditures for purely political speech and the expense limitations set as prerequisites for issuance of permits by many solicitation statutes. The one directly restricts speech while the other conditions permission to solicit upon a showing that no more than a certain percentage of the group's income is spent on solicitation. However, that difference diminishes sharply when one remembers that much religious solicitation involves proselytizing as well as fundraising. A restriction on the amount that a group may expend on paid solicitors—whether they be church officials or a local advertising agency—is also a restriction on its ability to communicate the tenets of its faith or to carry on its social mission. It is virtually impossible to separate evangelism from fundraising in many instances. If the courts were to try, they would step directly into the web of entanglement problems described earlier. Thus, under *Buckley* the expenditure limitations place an impermissible prior restraint on First Amendment freedoms.

OTHER BASES FOR CHALLENGE

Due process problems—the Vagueness Doctrine

The preceding section discussed one aspect of the vagueness doctrine: that a statute may be so vague that officials may selectively enforce it on the basis of their prejudices or their whim at the moment.[66]

63. Los Angeles Municipal Code §44.19(6).
64. 424 U.S. 1 (1976).
65. 424 U.S. at 18-19.
66. The due process clause of the Fourteenth Amendment provides: "No State shall . . . deprive any person of life, liberty, or property without due process of law."

The second problem with a vague statute is that it is not sufficiently explicit to enable an ordinary citizen to obey it. Enforcement of a law, particularly a criminal or quasi-criminal statute, violates due process if an individual knowing of the provision could not have discerned exactly what conduct it prohibits.[67] The same problem arises if an individual is unable to discover whether he or she belongs to a particular class of persons whose activities are subject to regulation.

Many solicitation statutes are riddled with ambiguities, chief among them being the religious/charitable distinction. Statutes like the Los Angeles ordinance often expressly exempt solicitation by religious groups. Yet officials seek to enforce these same ordinances against such clearly religious organizations as the National Council of Churches if the purpose for which they solicit does not seem sufficiently "religious" to them. Once again, official discretion determines whether and how the ordinance will be enforced or what is and is not religious.

James Madison, in his famous Memorial and Remonstrance Against Religious Assessments, recognized the peril inherent in this kind of official discretion:

[T]he bill implies either that the Civil Magistrate is a competent Judge of Religious trust; or that he may employ Religion as an engine of Civil policy. The first is an arrogant pretension falsified by the contradictory opinions of Rulers in all ages, and throughout the world: The second, an unhallowed perversion of the means of salvation.[68]

Equal protection

Many solicitation statutes may run afoul of the Fourteenth Amendment's requirement of the equal protection of the laws.[69] For example, some solicitation statutes exempt one particular organization or another, such as the Red Cross, thus setting up a classification system of favored and disfavored organizations.

The Supreme Court traditionally has used two different standards of review, depending on the nature of the interests at stake in cases involving equal protection. If neither constitutionally protected interests nor suspect classifications, such as race, are involved, the party challenging a statute on equal protection grounds must show that the statute bears no rational relationship to a legitimate state interest.[70] However, if a fundamental interest—one protected by the Constitution—or a suspect classification is involved, then the State bears the burden of showing that the statute protects a compelling State interest and that there are no less restrictive means of accomplishing the State's purpose.[71]

Because First Amendment rights are involved in cases concerning religious solicitation, any classification among groups must be based upon a compelling State interest and must survive review under the "strict scrutiny" test.

67. *Connally* v. *General Const. Co.*, 269 U.S. 385, 391 (1926) (ordinance is impermissibly vague if "men of common intelligence must necessarily guess at its meaning").

68. Madison, "Memorial and Remonstrance Against Religious Assessments," Appendix II to Opinion of Douglas, J., dissenting in *Walz v. Tax Commission*, 397 U.S. 664, 716 (1970).

69. The Equal Protection Clause of the Fourteenth Amendment provides: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

70. *Vance* v. *Bradley*, U.S. 47 U.S.L.W. 4176, 4181 (Feb. 22, 1979); *Massachusetts Board of Retirement* v. *Murgia*, 427 U.S. 307 (1976).

71. Ibid at 322–323.

To the extent that statutes single out identifiable groups for special exemptions, they will almost certainly encounter equal protection problems.[72] It should not be enough to say that the Red Cross or United Way have proven their reliability over the years and are therefore exempt. Such an argument might suffice to meet the lower "rational relationship" standard of equal protection used when fundamental interests are not involved.[73] But it is difficult to imagine a *compelling* state interest that will justify exempting these groups while others must comply.[74]

The Fourth Amendment

The Fourth Amendment protects people from unreasonable searches and seizures of their persons, dwellings or possessions. Some solicitation ordinances require applicants to waive important Fourth Amendment protections in order to obtain permission to solicit. For example, under the Los Angeles ordinance, the Department of Social Services has the authority "to have access to and inspect and make copies of all books, records and papers of such person, by or on whose behalf any solicitation is made."[75] Thus, the exercise of one protected right—freedom of speech and religion—is conditioned upon the waiver of another. This violates what has become known as the doctrine of unconstitutional conditions.

The Supreme Court of the United States first articulated the doctrine in 1926:

> If the state may compel the surrender of one constitutional right as a condition of its favor, it may, in like manner, compel a surrender of all. It is inconceivable that guarantees embedded in the Constitution of the United States may thus be manipulated out of existence.[76]

The remarkable thing about many solicitation laws such as the Los Angeles ordinance is that it gives government officials access to *all* books and records, not just those involving fundraising, making it difficult to characterize the intrusion as a "reasonable" search in relation to the statute's purpose. Presumably, it provides such access to the books and records of religious as well as secular organizations if their fundraising efforts give "the impression" that these efforts may be for a charitable purpose. This suggests the unwholesome spectre of government officials leafing through and publicizing the religious tracts of an organization and even the minister's sermon notes if they choose to do so. Such a result violates the fundamental principle of American constitutional law that it is no business of the State to inquire into anyone's religious beliefs. Obviously the First Amendment concerns merge with Fourth Amendment concerns. For

72. *See, for example*, Minn. Stat. §309. 515(1), which exempts churches which do not depend on contributions of more than $10,000 from the public or which received more than half of their contributions from their own members or a parent organization. However, a federal court has ruled the Minnesota statute unconstitutional, primarily on First Amendment and Due Process grounds. *Valente* v. *Larson*, Civ. 4-78-453 (D.Minn., May 3, 1979).

73. *See New Orleans* v. *Dukes*, 427 U.S. 297 (1976); *National Foundation v. City of Ft. Worth*, 415 F. 2d 41 (5th Cir. 1969), *cert. denied*, 396 U.S. 1040 (1970). *But see*, *Adams v. City Park Ridge*, 293 F. 2d 585 (7th Cir. 1961); *City of Seattle v. Rogers*, 106 P. 2d 598 (Wash. 1960).

74. *See, e.g.*, *Grayned v. City of Rockford*, 408 U.S. 104 (1972).

75. Los Angeles Municipal Code §44.03 (b).

76. *Frost & Frost Trucking Co., v. Railroad Commission*, 271 U.S. 583, 593–94 (1926).

example, governmental intrusion into membership books and records often are held to impinge upon protected associational freedom.[77]

In the context of religious freedom, the First and Fourth Amendment protections may be interpreted to include at least some aspects of the priest-penitent privilege.[78] And, as protected, this privilege may be sufficiently broad to encompass communications received in the course of a social ministry. Any laws that intrude too broadly into the records of a religious organization may well violate the priest-penitent privilege component of any First or Fourth Amendment protection.[79]

The commerce clause

Article I, section 8, clause 3 of the United States Constitution grants Congress the power to regulate commerce among the several states. The commerce power is plenary and includes non-commercial as well as commercial goods traveling in the channels and facilities of commerce. Thus, it includes solicitation by mail.

The Commerce Clause prohibits state and local governments from implementing regulations that unduly burden interstate commerce. Under some circumstances, the prohibition is absolute; under others, the courts will use a balancing test. For example, states cannot require a permit or levy a flat license fee for the privilege of engaging in interstate commerce, no matter what the state purpose.[80] The cumulative burden of state and local regulation of charitable solicitation has been described above. In addition, charitable solicitation statutes often require filing fees. When applied to out-of-state organizations, such fees, however minimal, may amount to fees imposed for the privilege of engaging in interstate commerce.[81]

State Constitutional provisions

With the exception of the Commerce Clause, most state constitutions contain provisions similar or identical to the federal rights discussed above. Recently, some state courts have been interpreting these state provisions to provide greater individual protections than do the federal equivalents as interpreted by the Supreme Court of the United States.[82]

While the current Supreme Court of the United States has generally been quite solicitous of First Amendment freedoms, of late it has not been so expansive with the due

77. *See*, for example, Gibson v. *Florida Legislative Investigation*, 372 U.S. 539 (1963); *NAACP* v. *Button*, 371 U.S. 415 (1963); *see also* 13 U.S.C. Sec. 221(c) and 225(d); *Familias Unidas* v. *Briscoe*, 544 F. 2d 182, 192 (5th Cir. 1976); *Britt* v. *Superior Court*, 20 Cal. 3d 844, 857 (1978).

78. *See*, for example, *In re Wood*, 430 F. Supp. 41 (S.D.N.Y. 1977), *aff'd sub nom In Re Cueto*, 554 F. 2d 14 (2d Cir. 1977); *In re Verplank*, 329 F. Supp. 433 (C.D. Ca. 1971); *Cimijotti v. Paulsen*, 219 F. Supp. 621, 629 (N.D. Iowa 1963). See also *Mullen v. United States*, 263 F. 2d 275 (D.C. Cir. 1958).

79. *See*, for example, *In Re Verplank*, 329 F. Supp. 433 (C.D.Ca. 1971).

80. *Nippert* v. *City of Richmond*, 327 U.S. 416 (1946); *Real Silk Hosiery Mills* v. *City of Portland*, 268 U.S. 325 (1925).

81. One case, *Breard v. City of Alexandria*, 341 U.S. 622 (1951), could be misconstrued to refute any Commerce Clause challenge to solicitation statutes. The idea that purely commercial speech has no First Amendment protection—has been eliminated by recent Supreme Court action. *See Virginia Board of Pharmacy* v. *Virginia Citizens Consumer Council, Inc.* 425 U.S. 748 (1976).

82. *See* Brennan, *State Constitutions and the Protection of Individual Rights*, 90 Harv. L. Rev. 489 (1977); Johansen, Comment, *The New Federalism: Toward a Principled Interpretation of the State Constitution*, 29 Stan. L. Rev. 297 (1977).

process and equal protection clauses of the federal Constitution. Thus, those who challenge statutes in states with more liberal Supreme Courts would do well to examine recent decisions based on the state constitution and to include state constitutional arguments as well.

CONCLUSION: A PROPOSAL FOR REGULATING RELIGIOUS SOLICITATION

The proliferation of charitable solicitation statutes—and the increasing litigation concerning them—is evidence of a growing unease with those who seek to separate us from our money in order "to do good." As a nation, we have traditionally relied upon voluntary giving to sustain our charities:

> Americans combine to give fetes, found seminaries, build churches, distribute books, and send missionaries to the antipodes. Hospitals, prisons, and schools take shape in that way. Finally, if they want to proclaim a trust or propagate some feeling by the encouragement of a great example, they form an association. In every case, at the head of any new undertaking, where in France you would find the government, or in England some territorial magnate, in the United States you are sure to find an association.[83]

Yet many apparently believe that the public requires greater protection from unscrupulous Elmer Gantrys who possess almost superhuman ability to charm us into giving our money and even our lives. Others are annoyed or distressed at being accosted in airports and train stations by members of particular sects seeking both contributions and converts. Many people do not wish to be visited at home by the faithful of any church. Still others are offended by the apparent proliferation of bizarre sects. Finally, many people may be offended by increased involvement of churches and church groups in social mission activities like the Kent State Due Process Fund, the Wounded Knee Defense Fund and the anticapital punishment movement.

In response to growing public concern about charitable solicitation in general, secular charitable organizations have suggested detailed registration and reporting requirements, usually at a nationwide level, to do away with the cumulative burden of conflicting state and local regulations.[84] However, as demonstrated earlier, such requirements pose an almost impossible problem of state entanglement with church affairs. Some religious groups advocate voluntary disclosure of church finances as part of any fundraising campaign that reaches outside church membership. On its face, voluntary disclosure seemingly resolves the First Amendment problems raised by state-imposed reporting requirements. But, given the extraordinary vagueness of so many solicitation statutes, it is not difficult to envision a situation in which officials refuse permission to solicit to groups that do not voluntarily disclose their finances. And church groups by no means universally embrace the voluntary disclosure approach.

The tensions built into the church/state relationship by the First Amendment may very well preclude ap-

83. Alexis de Tocqueville, *Democracy in America* 485 (J. Mayer & M. Lerner Ed. 1966).

84. *See*, for example, *Commission on Private Philanthropy and Public Needs, Report—Giving in America—Toward a Stronger Voluntary Sector* 162–66 (U.S. Dept. of Treasury, 1975); National Health Council, *Viewpoints: State Legislation Regulating Solicitation of Funds from the Public* 2 (1976).

plication to religious groups of most solicitation statutes. These statutes are basically preventive—that is, they seek to prevent abuses by regulation and investigation. To the extent that the statutes regulate the time, place, and manner of solicitation with little or no exercise of discretion on the part of officials, they are clearly well within the First Amendment. Thus airport and residential solicitation may be regulated, but not prohibited. But statutes that seek to assure the State of the worthiness or reliability of a religious group prior to granting permission to solicit or which seek to audit a religious group after solicitation violate the Constitution.

When dealing with religious groups, the State must content itself with using the criminal law to prevent abuse. This is by no means an impotent weapon. State and federal statutes prohibit fraud and make it punishable as a criminal offense. In addition, federal statutes regulate the use of the mails and other channels of interstate commerce. Trespassing laws, of course apply to the uninvited disciple as they would to any unwanted guest. And overzealous solicitors may be liable for both civil and criminal assault or battery.

The problems raised by those who abuse charitable solicitation are real. But many state and local governments, in an excess of zeal, have enacted statutes that violate fundamental constitutional principles. Less restrictive means to deal with the problem are available through the criminal law and through regulation of time, place and manner.

Mr. Justice Jackson described the boundaries drawn by the First Amendment between regulation of all secular matters and religious matters:

> [A State] may make public business of individual welfare, health, education, entertainment or security. But it cannot make public business of religious worship or instruction, or of attendance at religious institutions of any character. . . . That is a difference which the Constitution sets up between religion and almost every other subject matter of legislation, a difference which goes to the very root of religious freedom. . . . [85]

The fact that many solicitation statutes exempt religious organizations altogether amply attests to the viability of other means of policing abuses by those who solicit from the public. But until the exemptions are total and until enforcing officials are divested of any discretion in determining religious purpose, the boundary between church and state will remain impermissibly blurred, and the "root of religious freedom" may be forced to give way to increasing public distrust and fear.

85. *Everson* v. *Board of Education*, 330 U.S. 1, 26 (1947) (Jackson, J. dissenting).

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The State Takes Over A Church

By SHARON L. WORTHING

ABSTRACT: As political pressure for "public accountability" of charitable organizations and churches increases, lines which delineate the borders of appropriate government surveillance and enforcement activity towards charitable organizations and churches, now somewhat unclear, will be sharpened by contest. A spectacular illustration of what can occur when the state loses its sense of restraint is the receivership imposed on the Worldwide Church of God in a proceeding brought by the California Attorney General's office. Instead of constitutionally required separation of church and state, there followed a period in which a state-appointed official took charge of all the administrative affairs of a church and its affiliated charitable organizations. Arguments which have served as a basis for the Attorney General's extreme action are that charitable funds, including church funds, are "public funds," and that the financial affairs of churches are entitled to no First Amendment protection. This article proposes that the line which marks the constitutionally protected rights of churches be drawn at a point rather close to that which marks protections for individuals. In addition, the financial and religious affairs of churches should be recognized as inextricably linked. Thus, legitimate law enforcement against churches could be conducted without abridging the unique protections of churches under the First Amendment.

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ON JANUARY 3, 1979, the State of California took over a church. It was not done quietly, but it was done very suddenly. A retired judge, officials from the State Attorney General's office, and private attorneys entered the Worldwide Church of God headquarters in Pasadena. They strode to the executive suite. Church employees, taken totally by surprise, resisted. State officials threatened arrests. They banged glass doors with night sticks. When the judge had entered the suite, he almost immediately fired a Church secretary. Cartons of documents were seized by state officials and carried off, with no record left for the Church.

The judge and his staff moved into the top floor of the Church Administration building. They stopped payment on all the Church's outstanding checks, including paychecks and checks to television and radio stations. The judge was not acting on a random inspiration. Things had been shrewdly arranged in advance and he had been made the court-appointed receiver of the Church. As such, he became master of all the Church's financial operations. Two-and-a-half months later, Church members succeeded in extricating the Church from this control by pledging their homes and other property worth more than $2,000,000. In all of this activity, and after months had passed, only one thing was missing—a single misdeed by a Church official or employee had yet to be proven in a court of law.

Why did the State of California take over a church? How does such an action square with constitutional protections against state action generally, with the separation of church and state and the free exercise of religion? What constitutional rights apply to associations of persons who seek to exercise their freedom of religion, as compared with the rights of the individual believer?

EVENTS LEADING TO APPOINTMENT OF THE RECEIVER

The Worldwide Church of God began more than 45 years ago as the Radio Church of God, founded by Herbert W. Armstrong. Mr. Armstrong, now in his upper eighties, still heads the Church, and is considered by it to be the appointed apostle of Jesus Christ on earth. His son, Garner Ted Armstrong, was disfellowshipped, or excommunicated, from the Church in 1978, and established the Church of God, International, in Tyler, Texas. Stanley Rader, an accountant and attorney, has been an officer and director of the Worldwide Church of God since 1975, and is Herbert Armstrong's personal advisor.

A small group of individuals, including supporters of Garner Ted Armstrong, consulted an attorney about the Worldwide Church of God in 1978. Their information was passed on to a California Deputy Attorney General, Lawrence Tapper, who agreed that a complaint containing the charges could be filed on behalf of the State.

The resulting Complaint[1] sought to have a receiver immediately appointed over all the property of the Worldwide Church of God, its affiliates, Ambassador College, Inc., and the Ambassador International Cultural Foundation, Inc., as well as over various associated for-profit corporations. Procedurally, there were

1. This case was filed as *People* ex rel. *Timmons* v. *Worldwide Church of God*, No. C 267 607 (Cal. Super. Ct., filed Jan. 2, 1979). The individual relators were dropped in the State's First Amended Complaint, changing the case name to *People* v. *Worldwide Church of God*.

several violations of local court rules. A hearing was held on the matter without any notice to the Worldwide Church of God; the Complaint was not filed in advance of the hearing; and the requirement of random selection of judges was circumvented by telephoning a particular judge in advance. A friend of the attorney for the dissident individuals was in the courtroom, and agreed to act as receiver. The judge appointed the receiver to take temporary control of the Church and its affiliated charitable organizations until a full hearing could be held on the matter a week later. Receivership was not imposed on the for-profit corporations.

THE STATE'S CHARGES

Seven named individuals, including Herbert Armstrong and Stanley Rader; the Church, the College, the Foundation, and some for-profit corporations were made defendants in the State's Complaint. The named individuals were charged with diverting assets belonging to the Church for their own use "on a massive scale, amounting to several million dollars per year," and resulting in substantial deficits. The individual defendants were also charged with "liquidating the properties of the Church on a massive scale," including more than fifty parcels of property in Southern California sold over a six month period, many at prices "well below their market value." The Complaint further alleged that the individual defendants had caused "the written records of their dealings to be removed from the Pasadena offices of the defendant corporations, and to be shredded and destroyed." If this process were allowed to continue, according to the Complaint, a complete accounting would be impossible.

The State urged that a receiver be appointed during the litigation to prevent the defendants from using Church assets for their personal benefit or selling off property at prices below market value, and preventing further destruction of financial records. The receiver was to investigate any claims the nonprofit organizations might have against the defendant Church officials and others, and to file suits based upon the investigation.

PRIOR FINANCIAL MONITORING OF THE WORLDWIDE CHURCH OF GOD AND ITS NONPROFIT AFFILIATES

In its First Amended Complaint, filed in April, against the Worldwide Church of God and associated individuals and corporations, the State alleges:

> [D]efendants have taken the position that all of their financial decisions and expenditures, including the disposition of funds for their personal use and benefit, is protected and exempted from review or scrutiny by anyone, including this court, by virtue of the First Amendment; and have thereby claimed and continue to claim that they are entitled to dispose of charitable funds as they please.

The Church and its nonprofit affiliated institutions have not been so closed about their financial activities as the State implies, however. The Church and College have been audited annually upon their own initiative for over twenty years. The Cultural Foundation was first audited for the year of 1977, two years after its formation. The Church, College, and Foundation file annual

information returns with the State Franchise Tax Board, and the Cultural Foundation also submits annual financial returns to the State Attorney General.

In addition, the Internal Revenue Service audited the College for the years of 1970, 1971, and 1972. In 1975, the IRS commenced a taxpayer compliance measurement program (TCMP) examination of the College, the most rigorous examination which it conducts, which took eighteen months to complete. In this procedure, the tax returns of individual Church officers, including that of Stanley Rader, were examined. Each of the above examinations by the IRS resulted in the issuance of a "no change" letter, showing that the College and Church officials were at that time in compliance with the financial obligations created by tax-exempt status.

Under California law existing at the time the receivership was imposed, the State Attorney General was authorized to examine the affairs of the Church to see if it failed to comply with its obligations as a nonprofit corporation, or departed from the purposes for which it was formed.[2] In the event of such a failure or departure, the Attorney General was directed to institute necessary corrective proceedings. Nevertheless, the Attorney General's office made no request for financial information from the Worldwide Church of God prior to the imposition of the receivership, but acted without notice in a manner which convulsed the entire Church operation.

2. Cal. Corp. Code § 9505 (West 1977). This section has been replaced by Cal. Corp. Code § 9230 (West Supp. 1979), effective January 1, 1980.

CONFIRMATION OF THE RECEIVER'S APPOINTMENT

Once the State had made its charges against the Church, unknown to the Church, and had a receiver appointed, the burden of proof effectively shifted to the Church. Instead of requiring the State to prove wrongful conduct, as is customary in our system of justice, the Church had to prove that it did *not* deserve the coercive measures imposed. At the hearing on confirmation of the receiver, the defendants were ordered by the court to show cause why the retired judge "should not be appointed as receiver *pendente lite*" (during the course of the litigation), and why an "injunction *pendente lite* should not issue" restraining the defendants from interfering with the receiver or selling property.

The evidence

At this hearing, beginning on January 10th, the State's charges against the Church were considered by the court. With respect to the charge of selling property below market value, the court said:

> I don't believe from the state of the evidence that the plaintiff has made any real showing of any substance that properties have been sold below market value.
>
> The declarations which were filed by the plaintiff in this regard have indulged in sheer speculation, conclusion and hearsay regarding the sales, and those are contrary to the specific declarations of the defendants, and unless the appraisals of the defendants are shown to be unreliable or just completely untrue at the time of trial, I don't believe that the plaintiff will be able to establish that the sales heretofore made have been improper in any respect, at least solely on

the basis that they were below market value.[3]

Regarding personal profit from Church assets, the court stated:

> [T]here has been enough in the way of questions raised which, again, place the court on notice that there might conceivably be some problems on the part of Mr. Rader with reference to the church.

The same judge later indicated that the State had presented no credible evidence of the destruction or removal of Church documents.

Ordinarily, a strong showing must be made to justify the appointment of a receiver, since this is a drastic measure which can cause considerable harm and inconvenience. In this case, however, the court stated:

> I believe it is not the duty of this court to finally determine [the charges], but only to determine whether or not there is any reasonable likelihood that perhaps a trier of fact in the future in this, when this action is heard, will determine that there is some possibility of truth to these charges, probability of truth.

Powers of the receiver

The court confirmed the appointment of the receiver, and gave him the following broad powers or instructions: (1) to take possession of all Church assets, tangible and intangible, except as otherwise provided; (2) to supervise and monitor all the Church's business and financial activities, and to take control where he "in the sound exercise of his sole discretion" found it necessary; (3) to hire "lawyers, accountants, appraisers, business consultants, computer experts, security guards, secretarial and clerical help, and employees of all sorts" to aid in the performance of his duties, and to pay them from the assets of the Church, subject to court supervision; (4) to take possession of all Church books and records, wherever located, and to make them available both to Church employees and State representatives; (5) to suspend or terminate any Church employee except Messrs. Armstrong and Rader, and to deny the suspended or terminated employee access to Church grounds and facilities; (6) to determine "in his discretion" the compensation and reimbursement for expenses to which Messrs. Armstrong and Rader were entitled, subject to their rights under existing employment contracts, as determined by the court, and to apply to the court for the removal of Messrs. Armstrong and Rader; (7) to employ personnel to conduct a thorough audit of Church financial and business affairs, and to apply to the court for leave to sue on the Church's behalf in cases of malfeasance or neglect; and (8) to take control of Church funds, if he deemed it necessary "in the sound exercise of his sole discretion," and, upon notice to the court and to the defendants, to deposit them in a special receiver's account.

The receiver was also directed not to interfere in "ecclesiastical affairs." In the event that Church officials and the receiver disagreed over whether a matter was ecclesiastical, they were to apply to the court to resolve the dispute. Defendants were enjoined from interfering with the receiver. The court stated:

> [W]hile I think it is perfectly clear that there was some immediate and serious damage to the church when the receiver was first appointed, it seems to have geared up again. The computers are now operating again, and as I understand it,

3. Throughout this article, statements made during court proceedings have been quoted. These statements were taken from copies of transcripts made by court reporters.

the operation is now presently back and it is operating—maybe not as efficiently as before because of the confusion caused by the receivership—but nevertheless it is operating.

Orientation of the receiver

Ordinarily, a receiver is to be a neutral party, appointed by the court to deal fairly with the claims of both sides in litigation. In the *Worldwide Church of God* case, however, the matter was complicated by the fact that the State is the plaintiff, and the receiver considered himself an agent of the State. As deputy receivers, the receiver appointed three attorneys who represented the individuals who had brought the charges—in violation of the principle of neutrality. When a judge questioned these appointments, the Deputy Attorney General immediately appointed these attorneys as Deputy Attorneys General on the State's behalf.

EVENTS LEADING TO SUSPENSION OF THE RECEIVERSHIP

After some weeks of service, the receiver decided to resign. In his final account, he requested close to $100,000 from Church funds to cover expenses and compensation for himself and his assistants, in addition to some $150,000 which he had already transferred from the Church to his receiver's account. The court dissolved the receivership for a brief period, and substituted an injunction. But on March 12th, the receivership was reimposed, with a new man acting as receiver. The court set bond to stay the receivership, pending appeal, at $2,000,000 if individual, not corporate, sureties were used. This amount was posted by Church members who pledged their homes and other property.

Thus, after two-and-a-half months, the Worldwide Church of God was able to resume normal control of its operations. Nevertheless, it could not be compensated for the immense financial and psychological damage it had suffered. Moreover, the press had picked up the charges of abuse made against the Church and spread them across the nation. As of this writing, the basic allegations made by the State have not been brought to trial. Nor has the Church been able to do more than stay the receivership, though it has filed petitions and appeals in various courts.

LEGAL CONSIDERATIONS

Unconstitutional application of a normal procedure is likely to begin in a lower level state court, with a judge who has infrequently or never handled constitutional issues beyond the basic rights of individual criminal defendants. Such a judge may consider a charge that religious freedom is being denied as just so much flag-waving in an effort to obscure wrongful conduct. The Worldwide Church of God, finding itself under a sort of siege, has challenged the State's intrusion into its affairs on constitutional grounds. The judge said that resistance to an audit by the State "has to make a reasonable mind suspicious that perhaps someone out there doesn't want that audit, for whatever the reason."

In addition, there is a high premium on expediency at the state court trial level. This emphasis may influence a judge to cast aside constitutional arguments when it appears that acceptance of these arguments would delay matters. At the January hearing confirming the appointment of a receiver over the Worldwide Church of God, a Church attorney told the court:

It seems to me that we—my client should be given an opportunity to object to the use of any documents based upon constitutional privileges.

THE COURT: What privileges?

* * *

THE COURT: If I give you the right to go through all the records before they go through them, this will grind to a halt, and I will not do it, Mr. Browne.

By the time an appellate court has scheduled, heard, and decided a matter, the freedoms at stake may have been effectively limited for some time. The Worldwide Church of God has been able to spend large sums for its legal defense, but smaller churches may not have the resources to press their claims over such a period.

Applicability of the First Amendment Religion Clauses to Churches as Institutions

The First Amendment reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." Less than forty years ago, the Supreme Court held that the First Amendment applies to the states through the Fourteenth Amendment.[4]

In the first major case in which the Supreme Court interpreted the free exercise clause of the First Amendment, it held that this clause does not shield criminal activity from the appropriate legal consequences.[5] Church members and churches themselves are fully subject to criminal prosecution. The Attorney General of California, however, did not initially choose to institute criminal proceedings against the Worldwide Church of God or its officials. Had his office done so, it would have been bound by the constitutional restrictions placed on the criminal process, and could not possibly have conducted itself in the freewheeling style it has adopted.

Freedom is often thought of as an individual thing which only incidentally belongs to institutions. Nevertheless, the establishment and free exercise clauses of the First Amendment appear to embrace institutions, not merely the individual believer. The framers of the Constitution wrote from a background of religious establishment in the Old World through powerful church institutions, often accompanied by government interference with dissident church assemblies.[6] To have any real meaning, then, the establishment clause has to apply to churches as organizations. In addition, since most religious worship is corporate, not purely private, the right of free exercise means very little if it does not include the right to form appropriate institutions or organizations to conduct religious activities. Such institutions must be accorded the treatment necessary to give meaning to the free exercise clause. Indeed, except for the occasional religious recluse, it is hard to conceive of individual religious liberty apart from institutional religious liberty.

The Position of Churches on the Scale of Constitutional Rights

Let us consider the extent to which churches merit the protections con-

4. *Cantwell* v. *Connecticut*, 310 U.S. 296 (1940).

5. *Reynolds* v. *United States*, 98 U.S. 145 (1879).

6. For an extensive treatment of the history of establishment and religious freedom, from antiquity to the present, see Leo Pfeffer, *Church, State, and Freedom* (Boston: Beacon Press, 1967).

tained in the Bill of Rights, the first ten amendments to the Constitution. Some of the provisions in the Bill of Rights are written as direct restraints on government, such as the First Amendment: "Congress shall make no law. . . ." Other provisions contain protections of persons, such as the Fifth Amendment: "No person shall be. . . ." Under the Fourteenth Amendment, the vast majority of the protections in the Bill of Rights have been held to apply against state governments. Churches would appear to have the benefit of all constitutional protections which are expressed as direct restraints on government. Churches would have the other protections to the extent that they qualified as "persons."

Churches are frequently organized as nonprofit corporations, as is the Worldwide Church of God. Corporations, in general, are often considered persons under the law, but not always. It has been held that business corporations are constitutionally entitled to due process of law,[7] and are entitled to some of the protections granted to private individuals against unreasonable searches and seizures.[8] Officers of business corporations cannot, however, assert the constitutional privilege against self-incrimination on behalf of the corporation.[9]

Constitutional rights at issue

The conduct of state agents towards the Worldwide Church of God is questionable under at least the following constitutional protections:

Freedom of speech—The receiver stopped and recalled a mailing from Herbert Armstrong to some 60,000 Church members. The court approved.

Freedom of association—The receiver, who was ordered to make all Church records available to the State, had access to Church membership lists. Such lists may be exempt from disclosure. In recognition of constitutional freedom of association, the Supreme Court in *NAACP* v. *Alabama* ex rel. *Patterson*[10] refused to allow enforcement of that part of a court order requiring production of membership lists.

Protection against unreasonable searches and seizures—Church documents were carried away indiscriminately, and no documents were shielded from the receiver's—and therefore the State's—scrutiny. The State made nothing approaching an adequate showing to justify seizing the documents.

Right to due process of law—Court rules regarding notice and the random selection of judges were violated when the receivership was imposed. In addition, the court-appointed receiver considered himself an agent of the State, the Church's opponent in litigation.

Problems are also raised under the religion clauses of the First Amendment, which will be discussed later.

The above actions by state agents violate one's sense of constitutional fairness. If it were held, however, that churches were entitled to a very low degree of constitutional protection, as argued by the State Attorney General's office, no constitutional violation may have occurred.

The position of the Attorney General's office

The position the California Attorney General's office has taken in this case is that churches, as charitable organizations, are entitled to a lesser degree of constitutional pro-

7. *Mississippi R.R. Comm'n* v. *Mobile & Ohio R.R. Co.*, 244 U.S. 388 (1917).
8. *G. M. Leasing Corp.* v. *United States*, 429 U.S. 338, *on remand*, 560 F.2d 1011 (10th Cir. 1977), *cert. denied*, 435 U.S. 923 (1978).
9. *Hale* v. *Henkel*, 201 U.S. 43 (1906).
10. 357 U.S. 449 (1958).

tection than are business corporations. The protection enjoyed by business corporations is, as described above, less than the protection granted to private individuals.

At the initial hearing on the receivership, one of the attorneys told the court:

> It is our position that a shorthand way of describing the law applicable to [nonprofit corporations] is that their property always and ultimately rests in the Court's custody, and they are always and ultimately subject to the supervision of the Court on the application of the Attorney General. In effect, there are no private interests.

As a general rule, a state Attorney General, as overseer of charitable organizations, is considered to represent the public, which is presumed to be the beneficiary of all charitable endeavors. In its First Amended Complaint, the State of California asserts that the Church, the College, and the Foundation have, on account of various tax exemptions, "enjoyed substantial public subsidies amounting over the last ten years to more than $150,000,000."

The concept that the public is the beneficiary of charitable enterprise, and the "public subsidy" argument, based on tax exemption, are combined to support a startling theory that Church funds are "public funds." Therefore, it is claimed that the Attorney General, as representative of the public, can freely intervene in Church affairs—more freely than if a business were involved. This results in a much lower degree of constitutional protection for churches than for businesses.

Evaluation of the Attorney General's position: "Government substitution"

An argument which serves to support the asserted right of the Attorney General's office to intervene freely in the affairs of charitable organizations is the "government substitution" concept. It is often considered that charities constitute a private replacement for what would otherwise be a governmental function—as, for instance, in the areas of education, health care, and social welfare activities. The Filer Commission has referred to the nonprofit or voluntary sector as a "third sector" which should complement and help humanize government.[11] This may create the impression that governmental intervention in the affairs of charitable organizations is more acceptable than in the affairs of other types of organizations. Nevertheless, the "government substitution" concept cannot apply to churches, since the Supreme Court explicitly stated that "[n]either a state nor the Federal Government can set up a church."[12] Consequently, government and churches cannot have the closeness which may appear to derive from the government substitution concept.

Policy considerations

It is difficult to see why, as a matter of policy, charitable organizations should be denied the constitutional protections given to profit-making corporations. Charitable fraud is often more shocking than corporate fraud, since it may constitute more of a betrayal of confidence. However, the need for constitutional protection of charitable organizations against government excesses would appear to be greater than the corresponding need for profit-making corporations, since charitable organizations are

11. Commission on Private Philanthropy and Public Needs, *Giving in America, Toward a Stronger Voluntary Sector* (Comm'n on Private Philanthropy and Public Needs, 1975), p. 48.

12. *Everson* v. *Board of Education*, 330 U.S. 1, 15 (1947).

more likely to be ideological in nature.

"Representative of the people"

The concept that the public, as the presumed beneficiary of charitable activities, "owns" charitable funds is no justification for repressive action by a government official who claims to be performing his duty towards the public. Although an Attorney General does represent "the people," he more directly represents "the government." Just because a criminal defendant is prosecuted in the name of the People of the State of California does not mean that he forfeits any of his constitutional rights against overbearing by government. Thus, an Attorney General's position as representative of the people should not permit his office to breach constitutional protections of charitable organizations.

As far as churches are concerned, there are specific constitutional protections for them which are not applicable to charitable organizations generally. There is no constitutional right to operate a charitable hospital, though there is a constitutional right to form a church. Thus, whatever consequences are seen to flow from an Attorney General's powers and duties regarding charities, the resultant effect on churches must be modified in accordance with the unique constitutional rights of churches.

The exemption "subsidy"

The tax-exemption "subsidy" argument cannot serve as a justification for a lower degree of constitutional protection for churches than for other types of corporations. Some charitable organizations do receive government funding or grants. It is questionable whether such funding should reduce their constitutional rights. In the case of churches, however, government funding is not permitted by the establishment clause of the First Amendment. In 1947, the Supreme Court wrote:

> No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion.[13]

In 1970, the Court held that state property tax exemption of churches did not violate the establishment clause.[14] The Court stated that tax exemption resulted in less entanglement of government with religion than would taxation. If tax exemption is then turned around and made an argument for state authority over churches, it betrays the very independence which it promotes. Tax exemption for churches surely is not a way for the state to get its hands on the churches.

THE STATE'S ACTIONS IN LIGHT OF THE FIRST AMENDMENT RELIGION CLAUSES

The First Amendment, applicable to the states through the Fourteenth Amendment, forbids a state to act so as to prohibit the free exercise of religion, or to violate the establishment clause. The establishment clause has been more frequently interpreted by the courts than the free exercise clause, and has consequently acquired rather complex shades of meaning. In 1971, the Supreme Court in *Lemon* v. *Kurtzman*[15] held that state action with respect to church institutions must meet the following criteria in order not to violate the establishment clause: a secular purpose; a primary effect which is neither to advance

13. Ibid., 16.
14. *Walz* v. *Tax Commission*, 397 U.S. 664 (1970).
15. 403 U.S. 602 (1971).

nor inhibit religion; and absence of excessive entanglement between government and religion. The excessive entanglement test is another way of expressing the constitutional requirement of church-state separation which the Supreme Court described in 1947. Too often, people view the establishment clause as merely precluding an "established church," without realizing that it also bans certain interferences with free exercise.

That the receivership imposed upon the Worldwide Church of God violated the free exercise clause of the First Amendment seems almost indisputable. Without a colorable showing by the State, a government designee and his agents were authorized to, and did, take over Church operations, fire Church employees, spend more than $100,000 in Church funds, and otherwise injure the Church over a period of some two months.

The State also transgressed the limitations created by the establishment clause. It is basically incongruous under our system to have a government-appointed official in charge of a church. It is arguable that the receivership had a secular purpose. However, its primary effect was surely to inhibit religion. It also resulted in excessive government entanglement with religion. The receiver could hardly have been more entangled in Church affairs.

There is a still more basic and underlying issue—the degree to which a state can supervise the financial affairs of churches without violating the religion clauses of the First Amendment.

POSITIONS OF TRIAL JUDGES

Perhaps because of a tendency to view the First Amendment in terms of individuals, not organizations, there is frequently an attitude that state oversight of church finances could not possibly pose a problem under the religion clauses. In a recent California proceeding, the Attorney General sought all the financial records of a church and affiliated organizations for the last ten years.[16] The judge stated:

> [I am not] saying that the Attorney General tells anybody how to exercise their freedom of religion, that the Attorney General has any power to tell anybody what to think, what not to think when it comes to ecclesiastical matters. But . . . when it comes to the financial aspects of the operation of a non-profit religious corporation, the State of California has decided, through its Legislature, that there is a need for supervision, and it has imposed that duty to supervise on the Attorney General's office. And I really don't see how that interferes in any way with the exercise by anyone of their religion or religious beliefs. . . .

Such an approach overlooks the fact that finances are a key to the operation of most large organizations.

The same approach was used by the judge in the *Worldwide Church of God* receivership case. In confirming the receiver's appointment, he said the court had no intention of allowing the receiver "to interfere in any way with ecclesiastical functions of the church . . . and the receiver is ordered not to do so." The receiver was to be concerned exclusively with "the financial and business affairs of the church."

> Now, in the event that any dispute arises between the receiver and the ecclesiastical authorities of the church over whether or not a particular matter is, in fact, ecclesiastical in nature, those authorities are authorized to employ counsel to apply to this court for a resolution of

16. In re *Faith Center, Inc.*, No. C 254 329 (Cal. Super. Ct., hearing Nov. 3, 1978).

that dispute, and that dispute will be resolved by the court.

The judge had complete confidence in his own ability to divide the sacred from the profane.

At a later hearing, the same judge again made it plain that he considered the financial and the spiritual aspects of the Church's work to be easily and thoroughly separable:

> If . . . I have one or two petitions come into this court with arguments made that the financial records involve ecclesiastical matters, let me assure you that I will consider that evidence of bad faith. . . .

This might be called the doctrine of the separation of church and, or rather *from*, church funds.

Constitutional analysis

The simple arithmetical formula that church minus financial and business affairs equals constitutionally protected religion, with the state defining the variables, does not stand up for anyone with the remotest familiarity with Supreme Court decisions in the church-state area. In the matter of parochial school aid, the Court has refused to allow an arrangement under which state authorities would examine the financial records of church schools and decide which expenditures were religious and which were not. Such examination would result in an "intimate and continuing relationship between church and state."[17] By contrast, the Court has stated:

> Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and *vice versa*. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between church and State."[18]

A substantial amount of church-state litigation has had dollars and cents as its subject matter.

In addition, Congress has recognized that churches are entitled to certain protections from government scrutiny of their finances which are not accorded to charitable organizations generally. All tax-exempt organizations—except churches, certain church-related organizations, and some very small organizations—are required to file annual returns of financial information with the Internal Revenue Service.[19] The Senate Finance Committee stated that churches were exempted from the requirement "in view of the traditional separation of church and state."[20] Thus, the Senate recognized that state supervision of church finances must be minimized in order to avoid breaching the wall of separation.[21] In addition, the Internal Revenue Code specifically limits IRS audits of churches.[22]

One's religious thinking influences one's judgment as to the validity of an expenditure for religious purposes. For instance, a Catholic might feel that an expenditure for masses for the dead was highly reasonable; whereas a Protestant might regard such an expenditure as totally unreasonable. The trial judge was aston-

17. *Lemon* v. *Kurtzman*, 403 U.S. 602, 622 (1971).

18. *Everson* v. *Board of Education*, 330 U.S. 1, 15–16 (1947).

19. Internal Revenue Code § 6033(a).

20. Senate Committee on Finance, *Tax Reform Act of 1969, Compilations of Decisions Reached in Executive Session* (91st Cong., 1st sess., USG PO, 1969), p. 53.

21. For a discussion of constitutional problems which may arise from requiring church institutions to file information returns, see Worthing, Note, *The Internal Revenue Service As a Monitor of Church Institutions: The Excessive Entanglement Problem*, 45 Fordham L. Rev. 929 (Mar. 1977).

22. Internal Revenue Code § 7605(c).

ished at the Worldwide Church of God's large expenditures for overseas travel, which the Church considers essential to its mission. Yet it is not this church's policy to spend money on church buildings—though large expenditures for this purpose might conceivably have been found more acceptable. Drawing a clear line *between* a church's financial and religious judgments can defy the stoutest ingenuity.

THE CONSTITUTIONAL RIGHTS OF CHURCHES: A PROPOSED THEORY

Churches should have a higher degree of constitutional protection than do businesses or other secular associations. As organizations whose purpose is essentially ideological, churches are more likely to be victimized by selective repression than businesses are. The free exercise clause necessitates a higher standard: the protection given to churches should more closely approximate that afforded to private individuals.

The prohibition against excessive entanglement between church and state, derived from the establishment clause, should be construed as creating a kind of "right to privacy" for churches. This right, which has been construed as belonging to individuals as a result of constitutional and other protections,[23] is also referred to as the "right to be let alone."[24] There is infringement on individual liberty if the government has a right to examine an individual's affairs, transactions, and records at will. Likewise, if the government can peruse church records at its pleasure, there is a violation of church-state separation, and religious liberty is infringed.

Orders compelling Roman Catholic schools to provide certain information to the Secretary of Consumer Affairs of Puerto Rico were held unconstitutional in a recent decision by the First Circuit.[25] The court stated: "[A]s has long been recognized, 'compelled disclosure has the potential for substantially infringing the exercise of First Amendment rights'" (quoting the Supreme Court in *Buckley* v. *Valeo*).[26] Thus, the state should not place itself in the role of systematically monitoring the financial affairs of churches, just as it should not do so with individuals. The concept that churchmen of good will should be thoroughly content to turn their records over to the state at any time for its benevolent scrutiny is not a realistic one in light of past efforts to suppress unpopular ideologies.

If these propositions were adopted, they would promote a government policy towards churches which allowed for law enforcement without violating the unique rights of churches under the First Amendment.

23. *Katz* v. *United States*, 389 U.S. 347 (1967).

24. *Davis* v. *United States*, 328 U.S. 582, 587 (1946).

25. *Surinach* v. *Pesquera de Busquets*, No. 78-1527 (1st Cir. July 25, 1979).

26. Ibid., 10.

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Freedom of Religion Versus Civil Authority in Matters of Health

By RONALD B. FLOWERS

ABSTRACT: Decisions of the United States Supreme Court in 1963 and 1972 expanded the scope of the free exercise clause of the First Amendment beyond any previous interpretation of that clause in American judicial history. Although it is still understood that government may prohibit religiously motivated behavior which represents harm to individuals or to the public welfare, civil authorities now may intervene only when the religious activity threatens a compelling state interest. The possibilities of religious activity are abundant, and government intervention is limited to only the gravest offenses of the public order. This article examines some of the areas of health, broadly defined, in which religious attitudes have conflicted with state interests: the handling of poisonous snakes and drinking of poison in religious worship, the use of prohibited drugs in worship, compulsory blood transfusions for those who have theological objections to them, and the application of public health laws to those whose theology rejects medicine altogether. In the light of these cases, as much as the American constitutional system exalts religious liberty, it can never be unfettered. But, even in this area, it is imperative that our governmental units make religious liberty the rule and its curtailment the exception.

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IN THE ONE hundred first year after the Supreme Court initially interpreted the free exercise clause of the First Amendment, it is appropriate to examine the current understanding of religious freedom. In *Reynolds* v. *United States*,[1] a Mormon polygamy case, the court declared that religious belief was subject to no restraints, but that civil authorities could prohibit religious activity if it were believed to be harmful to others: the free exercise clause was not absolute. After *Reynolds*, the federal government retained the power to prohibit all religious action judged to be subversive to social duties and good order.

However, in 1940, *Cantwell* v. *Connecticut*[2] broadened the scope of religious freedom by declaring that religious behavior was subject to government restraint only if the activity posed a "clear and present danger" to the public welfare.

The "clear and present danger" test for interpreting the free exercise clause was further refined in *Sherbert* v. *Verner*,[3] in which a Seventh-Day Adventist had been denied state unemployment compensation benefits because she would not accept jobs requiring her to work on Saturday. The Supreme Court held that to disqualify her for unemployment payments because she would not violate her sabbatarian belief imposed an unconstitutional burden on the free exercise of her religion.

In arriving at that decision, the court used a balancing test which has become the prevailing means of deciding free exercise cases. First, it must be determined whether the law in question has imposed a burden upon the free exercise of religion and, secondly, if it has, whether the state interest is strong enough to justify the burden. In this balancing, the weight of religious freedom is great and demands a compelling state interest to overcome it. As to the nature of a compelling state interest, the court said:

> It is basic that no showing merely of a rational relationship to some colorable state interest would suffice; in this highly sensitive constitutional area, "only the gravest abuses, endangering paramount interests, give occasion for permissible limitation."[4]

The effect of this language is to further shrink the possibility of civil interference in the free exercise of religion, even when religious behavior infringes on public welfare. This is amplified by a third part of the procedure: if a demonstrated state interest is to prevail, the state must show that it has no other way to accomplish its interest without infringing First Amendment rights.

This concept from *Sherbert* was expanded in *Wisconsin* v. *Yoder*.[5] There Old Order Amish parents challenged state laws compelling them to send their children to school through age 16 when they, as a matter of religious faith, desired to limit their children's formal education to the eighth grade. The Supreme Court recognized that Wisconsin had a strong interest in requiring the education of children to the level of self-reliance and potential political participation. But, even here the state interest did not automatically triumph over the exercise of religion. Following *Sherbert*, the court said:

> The essence of all that has been said and written on the subject is that only those interests of the highest order and

1. 98 U.S. 145 (1878).
2. 310 U.S. 296.
3. 374 U.S. 398 (1963).
4. Ibid. at 406; citing *Thomas* v. *Collins* 323 U.S. 516 at 530.
5. 406 U.S. 205 (1972).

those not otherwise served can overbalance legitimate claims to the free exercise of religion.[6]

Because the Amish are a law-abiding and productive people, presenting a burden on neither the police nor the economic resources of the state, the court held in their favor.

Some feel that the court reversed itself and shortened the reach of the free exercise clause in *Trans World Airlines* v. *Hardison*, which held that a corporation need not go to extraordinary efforts to accommodate a sabbatarian employee's religion.[7] However, the court probably did not alter its view of free exercise in that case because it merely construed a statute, not a constitutional question. That is confirmed by *McDaniel* v. *Paty*, in which the court considered the constitutional issue of whether Tennessee could forbid an ordained minister to serve in a constitutional convention.[8] Relying on *Sherbert* and *Yoder*, the court held that Tennessee's action was an unconstitutional denial of the minister's free exercise of religion. Consequently, the *Sherbert* and *Yoder* cases have given the free exercise of religion a scope unprecedented in judicial history.

DRUGS AS RELIGIOUS SACRAMENTS

There are state and federal statutes controlling the use, sale, and distribution of narcotics and other controlled substances, including hallucinogens. The rationale for these laws is to protect society from ill effects from the widespread use of such drugs. However, the issue is clouded considerably because some have used certain of the proscribed substances in their services of worship, claiming that such use is protected by the free exercise clause. One group which makes this claim is the Native American Church. Although the history of this religion is somewhat difficult to trace, it is clear that it has been a significant part of the lives of many American Indians since the late nineteenth century.[9] The church has combined some of the teachings of Christianity and traditional Indian religion, including the use of peyote, as an aid to achieving what may be described as a mystical experience.

Peyote comes from a cactus and is ingested during ceremonial meetings of the Native American Church by the participants' chewing the cactus buttons or drinking tea made therefrom. Because the principal constituent of peyote is mescaline, it is a hallucinogen, causing its user to see bright colors, geometric patterns, scenes of animals or humans, and creating a heightened sense of awareness and friendliness toward others.[10]

Others who have appeared in court to plead for the religious use of prohibited substances are the Neo-American Church (who used marijuana and LSD),[11] the Church of the Awakening (peyote),[12] various segments of the Universal Life Church (marijuana),[13] devotees of

6. Ibid. at 215.
7. 97 S.Ct. 2264 (1977).
8. 98 S.Ct. 1322 (1978).

9. A convenient short history may be found in George de Verges, "Note: Peyote and the Native American Church," *American Indian Law Review* 2 (1974):71–72.

10. *People* v. *Woody* 394 P.2d 813 at 816–817 (1964); *Whitehorn* v. *State* 561 P.2d 539 at 543 (1977); Alice Marriott and Carol K. Rachlin, *Peyote* (New York: New American Library, 1971).

11. *United States* v. *Kuch* 288 F. Supp. 439 (1968).

12. *Kennedy* v. *Bureau of Narcotics and Dangerous Drugs* 459 F.2d 415 (1972).

13. *Lewellyn* v. *State* 489 P.2d 511 (1971); *People* v. *Mullins* 123 Cal. Rptr. 201 (1975).

Hinduism (marijuana),[14] and at least one individual who claimed no membership in an organized religion but who said that marijuana helped him meditate with the Supreme Being.[15]

People v. *Woody*, handed down by the California Supreme Court, is the case which articulated the basic ground rules in this area. Using the balancing test put forth in *Sherbert*, the court decided that the enforcement of the law against the use of peyote by the Native American Church did infringe upon its member's religious freedom. Furthermore, the court found that the state interests were not compelling enough to allow the prohibition of this religious act. The state declared that the use of peyote by the church indoctrinated Indian children in the use of the substance, that the use of peyote would lead to the use of other prohibited drugs, that the Indians relied on peyote rather than medical care, and that the religious use of this drug made the enforcement of the drug laws more difficult. The court found that none of these contentions were supported by fact and so ruled that the state had to exempt peyote used in worship from the enforcement of its dangerous substances laws.

In making this exception for peyote, the court was aided by two arguments. First, the use of peyote has a long history in Indian religion and the practice at bar was not a recent thing; the religion was not an invention of the defendants bent on justifying the use of peyote. Second, the court relied heavily on the fact that the use of peyote was central to the worship of the Native American Church.

> Although peyote serves as a sacramental symbol similar to bread and wine in certain Christian churches, it is more than a sacrament. Peyote constitutes in itself an object of worship; prayers are directed to it much as prayers are devoted to the Holy Ghost. . . . The record thus establishes that the application of the statutory prohibition of the use of peyote results in a virtual inhibition of the practice of defendants' religion. To forbid the use of peyote is to remove the theological heart of Peyotism.[16]

In distinguishing the case from *Reynolds*, the court said:

> Polygamy, although a basic tenet in the theology of Mormonism, is not essential to the practice of the religion; peyote, on the other hand, is the *sine qua non* of defendants' faith. It is the sole means by which defendants are able to experience their religion; without peyote defendants cannot practice their faith.[17]

Because of the centrality of peyote in this religion, the state's interest in controlling harmful substances was not compelling enough to forbid its use.

Finally, the court recognized that whereas it was forbidden from assessing the vitality of the faith of the defendant,

> the courts of necessity must ask whether the claimant holds his belief honestly and in good faith or whether he seeks to wear the mantle of religious immunity merely as a cloak for illegal activities . . . the court does not determine the nature of the belief but the nature of defendants' adherence to it.[18]

In the instant case, the court ruled that Woody and his co-defendants were sincere in their faith.

14. *Leary* v. *United States* 383 F.2d 851 (1967).

15. *People* v. *Collins* 78 Cal. Rptr. 151 (1969).

16. *People* v. *Woody* 394 P.2d at 817, 818.

17. Ibid. at 820.

18. Ibid. at 821.

Since the *Woody* decision in 1964, courts have generally permitted the use of peyote in worship. One court expanded the permissible use of peyote beyond the actual worship meetings of the Native American Church to the mere possession and transportation of the substance, since even carrying peyote is very holy to the members of the church. Again, the enforcement of drug possession laws was not considered to be a state interest strong enough to take precedence over the free exercise of religion.[19]

However, the free exercise argument supporting the use of other drugs has not fared as well. In the cases relating to the religious use of marijuana and/or LSD, the courts have been unwilling to grant an exemption. Some specifically mentioned that they were not bound by the *Woody* decision; all have indicated that those drugs were simply too dangerous and that the state did have a compelling interest in controlling them. This view was perhaps best summed up by the court in *United States* v. *Kuch*:

> If individual religious conviction permits one to act contrary to civic duty, public health and the criminal laws of the land, then the right to be let alone in one's belief with all the spiritual peace it guarantees would be destroyed in the resulting breakdown of society. . . . The vital significance of the constitutional protection of religion will be diluted by a degree of tolerance that accepts the practice of acts which leave society helpless to protect itself.[20]

In denying the use of these drugs over against a free exercise of religion claim, a strong corollary argument has been the negative side of the centrality argument. The court in *Woody* acknowledged that peyote was central to the worship of the Native American Church and placed great weight on that. In the LSD and marijuana cases no court has agreed that the use of these drugs was essential to the religion at bar. The feeling has been that the use of these drugs was ancillary to the religion. This kind of reasoning is best summed up in *People* v. *Collins*:

> . . . the law does not bar him from practices indispensable to the pursuit of his faith. Rather, it compels him to abandon reliance upon an artificial aid and to utilize other, perhaps self-induced means to attain the desired intensification of apperception.[21]

However, the argument about the indispensibility of an act to religion, which has been so important in either affirming or denying the use of drugs, has been challenged. The Church of the Awakening sought to be included in the federal regulation which authorized the Native American Church to use peyote in worship. The court, in finding against the Church of the Awakening, argued that the government's interest in regulating peyote was the health of the public, Indians and non-Indians alike.

> We cannot say that the Government's interest in a church member's health increases or diminishes depending upon whether his ingestion of a dangerous drug is of greater or lesser importance in the religious ceremonies of his church.

Consequently, the court held that the classification of Indians for an exemption to peyote laws was legally improper and to extend the exemption

19. *Whitehorn* v. *State* 561 P.2d 539. It is also interesting that after *Woody* the Federal Bureau of Narcotics and Dangerous Drugs declared that the religious use of peyote is not subject to federal control. 21 C.F.R. § 320.3 (c) (3) (1975).

20. 288 F. Supp. at 445, 446 (1968).

21. 78 Cal. Rptr. at 152 (1969).

to the Church of the Awakening would perpetuate the impropriety, so it decided against the church.[22] However, another federal district court recently included the Native American Church of New York, a separate and distinct church, within the federal regulation and allowed it to use peyote in worship if it were a bona fide church and regarded peyote as a deity.[23]

Another negative comment about centrality of practice arguments is found in a case in which a church was prosecuted for teaching sex education, an alleged violation of obscenity laws. The district attorney acknowledged that sex ethics was a concern of the church, but that it was not one of the basic tenets of its theology and thus could not be considered a protected religious practice. The court disagreed with that and with centrality arguments in general:

> This position is without merit. The protection the Constitution extends to the exercise of religion does not turn on the theological importance of disputed activity. Rather constitutional protection is triggered by the fact that it is religious.[24]

However, neither of these disagreements with the centrality argument has prevailed and it still plays a large role in drug cases.

SNAKES AND POISON AS AIDS TO WORSHIP

A form of religion which may seem bizarre to some but which has raised legal problems for certain of the Appalachian states is the handling of poisonous snakes and/or drinking strychnine during worship. Begun in 1909 in Grasshopper Valley, Tennessee by George Went Hensley, this form of religion bases its practice on a literal interpretation of Mark 16:17–18, which quotes Jesus as saying:

> And these signs shall follow them that believe; In my name shall they cast out devils; they shall speak with new tongues; they shall take up serpents; and if they drink any deadly thing, it shall not hurt them; they shall lay hands on the sick, and they shall recover. (from the King James Version, which these people use)

There are five signs mentioned in these verses which are said to accompany true belief and this "movement" practices them all. But the acts of faith which have brought them legal difficulties are the handling of venomous snakes and the drinking of lethal liquids. They believe that they are commanded by the Word of God to handle the snakes; the passage says "they *shall* take up serpents." Consequently, serpents are handled regularly in worship services when the faithful are "under the anointment" of the Holy Spirit. Poison is drunk less frequently than snakes are handled because it is optional for the believer; the passage says "*if* they drink any deadly thing, it will not hurt them" and these people believe it will not hurt them if they are under the power of the Holy Spirit at the time of the drinking. These believers insist that their activity is not done to test their faith, but to confirm the Word of God. The Bible says these things can be done by the faithful. These persons do them to show that the Bible is true.[25]

22. *Kennedy* v. *Bureau of Narcotics and Dangerous Drugs* 459 F.2d 415 (1972).

23. *Native American Church of New York* v. *United States* 468 F. Supp. 1247 (1979).

24. *Unitarian Church West* v. *McConnell* 337 F. Supp. 1252 at 1257 (1972).

25. A composite based on Weston La Barre, *They Shall Take Up Serpents* (New York: Schocken Books, 1969) and especially Robert W. Pelton and Karen W. Carden, *Snake Handlers: God-Fearers? Or, Fanatics?* (Nashville: Thomas Nelson, 1974).

In the 1940s several southeastern states enacted legislation prohibiting religious snake handling. In a number of cases, courts upheld the prohibitions over against free exercise of religion claims.[26] In the most recent case of this type, *State ex rel. Swann* v. *Pack*,[27] the Supreme Court of Tennessee issued a permanent injunction against religious snake handling and poison drinking in a case in which the defendant was Liston Pack, the pastor of the Holiness Church of God in Jesus Name.[28] What distinguishes this case from earlier ones is that it was decided after the limits of the free exercise clause were broadened in *Sherbert* and *Yoder*.

Although Tennessee has a statute which forbids handling or displaying poisonous snakes in such a way as to endanger the life or health of persons,[29] the Supreme Court decided the case on a broader, common law, concept of "public nuisance." A public nuisance is defined as

> everything that endangers life or health, gives offense to the senses, violates the laws of decency, or obstructs the reasonable or comportable use of property.[30]

The court recognized that religion is protected by the constitutions of both the United States and Tennessee. Because this freedom extends to unusual or even bizarre religions, the court readily acknowledged that the Holiness Church of God in Jesus Name is a constitutionally protected religious group. It clearly stated that in balancing the interests of religious freedom and the health, safety, and morals of society,

> the scales are always weighted in favor of free exercise and the state's interest must be compelling; it must be substantial; the danger must be clear and present and so grave as to endanger paramount public interests.[31]

However, given the broad nature of the public nuisance concept, the court decided the practices at bar did endanger paramount public interests and found against the defendant. In spite of evidence that precautions were taken in worship services to protect those not actually handling snakes, that fatalities from snake bite were minimal, and that the church in question was at the end of a dead-end, private, mountain, dirt road about one-half mile from a paved road, the court saw dangers to the public. The dangers cited were that snakes were handled in a crowded church sanctuary with virtually no safeguards, children were allowed to roam unattended, and that those handling the snakes, under the high emotion of anointment, were incapable of taking precautions. Because the state had the responsibility to prevent the unnecessary creation of widows and orphans and had an interest in maintaining a healthy, taxpaying citizenry capable of self-support and bearing arms, its interests were compelling.

> . . . we hold that those who publicly handle snakes in the presence of other

26. For a review of litigation of this type, cf. Mary Martin Schaffner, "Religious Snake Handling Abated as a Common Law Public Nuisance by Tennessee Supreme Court," *Vanderbilt Law Review* 29 (1976): 497–499.

27. 527 S.W.2d 99 (1975), cert. denied 424 U.S. 954 (1976).

28. The rather complicated history of this litigation is reviewed in Ibid. at 102–105 and Sarah N. Welling, "*State ex rel. Swann* v. *Pack*: Self-endangerment and the First Amendment," *Kentucky Law Journal* 65 (1976):212–213.

29. T.C.A. § 39-2208 (1975).

30. *Swann* v. *Pack* 527 S.W.2d at 113. Cf. also Schaffner, Religious Snake Handling . . ." pp. 505–513.

31. *Swann* v. *Pack* 527 S.W.2d at 111.

persons and those who are present aiding and abetting are guilty of creating and maintaining a public nuisance. Yes, the state has a right to protect a person from himself and to demand that he protect his own life. . . . Most assuredly the handling of poisonous snakes by untrained persons and the drinking of strychnine are not calculated to increase one's life span.[32]

Consequently, the court demanded a permanent injunction against these practices and claimed that it had found no lesser restrictions which would accomplish state interests.

The centrality argument, which had been so important in most of the peyote cases, carried little weight here. The court recognized that snake handling was central to the defendant's faith: "We recognize that to forbid snake handling is to remove the theological heart of the Holiness Church. . . ."[33] But even this grave matter did not tilt the balance to the side of religious freedom. Perhaps the reason for the court's decision is found in a statement made early in its opinion:

To say that this is not a conventional movement would be a masterpiece of understatement. Its beliefs and practices are, to say the least, unconventional and out of harmony with contemporary customs, mores and notions of morality.[34]

It appears that the court approached this case with the old belief-action approach to the free exercise clause and could not conceive how such behavior could outweigh state interests.[35]

32. Ibid. at 113.

33. Ibid. at 112.

34. Ibid. at 105.

35. In addition to the articles mentioned in notes 26 and 28, cf. David Davenport, "Application of *Sherbert* Test to Prohibit Snake Handling During Public Worship," *Kansas Law Review* 25(1977):585–593, who argues that the court did not properly weigh religious and state interests according to the *Sherbert* formula.

ON MATTERS OF BLOOD

A major area of controversy between religion and civil authorities has been over the administration of blood transfusions. The principal litigants have been the Jehovah's Witnesses who, although they approve of all other forms of medical care, steadfastly believe that transfusions are forbidden by God. They base their belief on Genesis 9:3–4, Leviticus 17:10–14, and Acts 15:19–20, which forbid the eating of blood, for the blood of a thing is its soul or life. The Witnesses believe that the command not to eat blood forbids transfusions as well. They believe this way of obeying God is central to the Christian life and so it is extremely important to them.[36]

However, when Witnesses come for some kinds of medical care, often in emergencies, their objection to transfusions makes treatment difficult and perilous. Even though Jehovah's Witnesses invariably sign statements relieving doctors and/or hospitals from liability, the latter petition courts to allow them to give blood transfusions. The authority for this procedure is *parens patriae*, the duty of the state to protect those who are unable to care for themselves. The court will normally assign the patient to a guardian who will authorize a transfusion even though the Witnesses assert that their right to reject the blood is guaranteed to them by the free exercise clause.

A frequently cited precedent for this procedure, particularly as it affects children, is *Prince* v. *Massachusetts*.[37] A Jehovah's Witness

36. *Jehovah's Witnesses and the Question of Blood* (New York: Watchtower Bible and Tract Society, 1977), pp. 4–12. To understand the Witnesses' position, one must read this booklet.

37. 321 U.S. 158 (1944).

allowed her nine year old niece to go with her onto the sidewalk to distribute Witness literature. Under the concept of the state's compelling interest in the safety and welfare of children, exemplified in child labor laws, the Supreme Court held that the child could not be exposed to the dangers of the public thoroughfare, regardless of the fact that they were engaged in a religious activity. The case is summed up in these famous words:

> But the family itself is not beyond regulation in the public interest, as against a claim of religious liberty. And neither the rights of religion nor rights of parenthood are beyond limitation. Acting to guard the general interest in youth's well being, the state as *parens patriae* may restrict the parent's control by requiring school attendance, regulating or prohibiting the child's labor and in many other ways. Its authority is not nullified merely because the parent grounds his claim to control the child's course of conduct on religion or conscience. . . . The state's authority over children's activities is broader than over like actions of adults. . . . Parents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make the choice for themselves.[38]

Under the *Prince* doctrine, states have regularly used their neglected child laws to appoint guardians for Witness children whom doctors judged to be in need of blood and administered transfusions over the protests of their parents. In an attempt to establish a precedent to halt such invasion of their religious beliefs, the Jehovah's Witnesses in Washington state filed a class action suit in a federal court. The court, in a decision which was later affirmed by the Supreme Court, relied heavily on *Prince* and rejected the Witnesses' establishment and free exercise clause claims.[39]

The *parens patriae* cases differ considerably in detail, but, when children are involved, state courts will decide in favor of blood transfusions regardless of parents' religious beliefs. In *State* v. *Perricone*,[40] an infant was brought to a hospital in a "blue" condition, which indicated a shortage of red blood cells to carry oxygen through the body. Fearing that the child was in danger of death, the court ordered the transfusion.

In the case of a Jehovah's Witness woman whose blood was Rh negative, before the child was born a court ordered a transfusion for her baby immediately after birth in order to avoid an emergency court hearing and with the belief that the child would not be able to survive without the infusion of blood.[41]

When a car accident victim was brought, bleeding and unconscious, to a hospital, a court ordered a transfusion over the strong religiously-based objections of the patient's mother, although the "child" was 22 years old.[42] In this, as in most cases, the court's action was based on the opinion of medical personnel that the child was in grave danger of death absent a blood transfusion.

But at least one court has ruled in favor of a parent's religious liberty claims. Ricky Ricardo Green was a 16 year old who had had polio and

38. Ibid. at 166, 168, 170.

39. *Jehovah's Witnesses in the State of Washington* v. *King County Hospital* 278 F. Supp. 488 (1967), affirmed *per curiam* 390 U.S. 598 (1968).

40. 181 A.2d 751 (1962).

41. *Hoener* v. *Bertinato* 171 A.2d 140 (1961).

42. *John F. Kennedy Memorial Hospital* v. *Heston* 279 A.2d 670 (1971).

also suffered from a 94 percent curvature of the spine. He was unable to stand. Doctors said that a spinal fusion operation would improve the boy's condition measurably but that he would continue to live if the operation were not performed. Ricky's mother agreed to the operation but stipulated that it should be done without blood transfusion. When a hospital filed suit to authorize transfusions for the operation, the court found in Mrs. Green's favor. The deciding factor was the absence of a life or death situation.

> We are of the opinion that as between a parent and the state, the state does not have an interest of sufficient magnitude outweighing a parent's religious beliefs when the child's life is not *immediately imperiled* by his physical condition.[43]

However, another court, in virtually identical circumstances, an operation to correct a massive disfigurement of a 15 year old boy's face and neck, ruled in favor of transfusions.[44]

Finally, in the case of an infant born prematurely whose doctors recommended blood transfusions to avoid irreparable brain damage, the court ordered the transfusions, although the doctors said that the danger was not one of loss of life.[45]

One can generalize that when minors are involved, the courts, with few exceptions, will decide in favor of compulsory blood transfusions over religious freedom objections. In cases involving adults, the assumption would naturally be that courts would decide in favor of the Witnesses, given the language in *Prince*. But adults are not always free to make martyrs of themselves, often because they are parents. (The "martyr" language from *Prince* is not directly applicable to the Jehovah's Witnesses, for uniformly they wish to live rather than to die; neither does their theology urge death upon them. But it does urge them to obey God, one of whose commandments, they believe, is against ingesting blood by any method.)

In a famous case a woman with a bleeding ulcer was brought to a hospital. She was near death and mentally disoriented. She was also the mother of children. Under those circumstances of emergency and on the theory that if she died her children could become the responsibility of the state, the court ordered a blood transfusion.[46] In almost identical circumstances, a court ordered a transfusion for a 39 year old father, adding as a rationale a consideration for the doctor's conscience and professional oath. The man had come for medical treatment, but on his terms, putting the doctor in a difficult situation. "The patient may knowingly decline treatment, but he may not demand mistreatment."[47] One wonders whether such a concept should have such force against the constitutional right of free exercise of religion.

In another case a pregnant woman was compelled to receive a transfusion because the state was interested in preserving the life of her unborn child.[48]

However, in *In re Estate of Brooks* the court determined that there were no minor children involved and that the death of one woman would not significantly endanger society and thus decided

43. *In re Green* 292 A.2d 387 (1972) emphasis in original.

44. *In re Sampson* 317 N.Y.S.2d 641 (1970).

45. *Muhlenberg Hospital* v. *Patterson* 320 A.2d 518 (1974).

46. *Application of President and Directors of Georgetown College* 331 F.2d 1000 (1964).

47. *United States* v. *George* 239 F. Supp. 752 (1965).

48. *Raleigh Fitkin-Paul Morgan Memorial Hospital* v. *Anderson* 201 A.2d 537 (1964).

against compulsory transfusions.[49] A man who had provided for the future financial security of his four children was also allowed to refuse transfusions,[50] as was a young wife who began to bleed severely after an operation, since she had no minor children and was not pregnant.[51]

In this body of litigation, there is abundant comment about state interest, but it is based on the *parens patriae* idea articulated by *Prince*. There is little balancing of religious and state interests which is demanded by *Sherbert* and *Yoder*. Neither is there any "centrality argument" such as one finds in the drug cases. If there were, some cases might have come out differently, since the aversion to blood is indispensable to Jehovah's Witness theology.[52]

SUBSTITUTING FAITH FOR MEDICINE

If Jehovah's Witnesses avoid blood, other groups have theological objections to all medical procedures. The most famous of these is Christian Science. Founded by Mary Baker Eddy and strictly following her teachings, Christian Science believes that the only true reality is God, who is Mind, Spirit. The perception of physicality is an error of mortal mind and, consequently, so is the perception of disease. To heal the sick, one must drive out the misperceptions of the mortal mind with Truth: illness is unreal and God, Spirit, is All-in-All. As a result of this theology, Christian Science does not believe in healing by conventional medical means.

Although Christian Scientists reject both the germ theory of disease and healing by the medical arts, they see the value in physicians and public health laws for those who believe in them. Furthermore, being law-abiding people, they will obey public health laws, but they also work diligently to be exempted from them.[53] There are laws which compel vaccination against communicable diseases such as smallpox, diphtheria, and poliomyelitis as a prerequisite for children's enrolling in school. In some instances Christian Scientists have been successful in persuading law-making bodies to grant exemptions to themselves and others who have religious objections to innoculations.[54] Exemptions have been granted out of sensitivity to religious belief and with the thought that the unvaccinated pose no threat to society as long as the majority is vaccinated.

However, exemptions are not

49. 205 N.E.2d 435 (1965).

50. *In re Osborne* 294 A.2d 372 (1972).

51. *In re Melideo* 390 N.Y.S.2d 523 (1976).

52. For elaboration of the cases mentioned above and an exposition of this issue beyond Jehovah's Witnesses claims, cf. Robert M. Byrn, "Compulsory Lifesaving Treatment for the Competent Adult," *Fordham Law Review* 44 (October 1975):1–36; John J. Paris, "Compulsory Medical Treatment and Religious Freedom: Whose Law Shall Prevail?: *University of San Francisco Law Review* 10 (Summer 1975):1–35; Douglas Becker, Robert Fleming, and Rebecca Overstreet, "The Legal Aspects of the Right to Die: Before and After the *Quinlan* Decision," *Kentucky Law Journal* 65 (1977):823–879. Although there was a religious dimension to the celebrated Quinlan case (*In re Quinlan* 355 A.2d 647 [1976]), it was not dispositive to the decision and so is not treated here.

53. Cf. Mary Baker Eddy, *The First Church of Christ Scientist and Miscellany* (Boston: The Christian Science Publishing Society, 1913), pp. 219–220, 344–345; Mary Baker Eddy, *Miscellaneous Writings, 1883–1896* (Boston: First Church of Christ, Scientist, 1896, 1924), pp. 80–81.

54. Examples of such laws and exemptions may be found in Anson P. Stokes, *Church and State in the United States*, Vol. 2, (New York: Harper, 1950), pp. 322–326; cf. also DeWitt John, "Recognition of Christian Science Treatment," *The Insurance Law Journal* (January 1963):18–22.

inevitable or constitutionally demanded. In 1905 the Supreme Court, in *Jacobson* v. *Massachusetts*,[55] established the precedent that a civil unit may constitutionally compel the vaccination of all residents as a protection against epidemic. Although there was not a religious dimension to the case, it has been approvingly cited in many cases in which religious freedom was the principal issue. The *Prince* case recognized *Jacobson* in its dictum:

> . . . (a parent) cannot claim freedom from compulsory vaccination for the child more than for himself on religious grounds. The right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.[56]

On the weight of *Jacobson* and *Prince*, the principle is firmly established that health measures necessary to the public welfare are of such importance that they override the free exercise of religion.[57]

Most communities have statutes requiring children to be vaccinated before they can attend school and, if parents refuse, the children can be declared neglected and the innoculation administered under the authority of the state. When a Christian Scientist tried to enroll some children in a public school without having them vaccinated, she was not allowed to do so.[58] In an Arkansas case, parents of unspecified religious belief refused to have their children vaccinated as a precondition to school attendance, although they strongly desired the children to go to school. The father stated that he opposed vaccination to the extent that if the children were taken from him and vaccinated, he would not accept them back. The state prevailed.[59] The issue of neglect goes beyond vaccinations. A member of the Church of God and Christ believed that God or Jesus would help her children without the assistance of doctors or dentists. She refused to seek medical care for her son, even after a school doctor discovered him to have an umbilical hernia, cavities, and fractured teeth. The court overruled the parent's religious preferences and declared the child neglected.[60]

In some jurisdictions the public health laws exempt children whose parents are members of groups which are recognized to have theological objections to medicine. When a Roman Catholic tried to enroll his child in school without vaccination, the court would not allow it, since objection to the medical arts was not characteristic to Catholicism.[61] The case of a Methodist received the same verdict.[62] There is a kind of centrality argument implied here, for exemptions are extended only to religious groups which have a tradition of objection to vaccination or other medical procedures. If such a view is not central to a group's theology, the exemption is not available.[63]

Often cases present an attack on a medical requirement itself. A

55. 197 U.S. 11. Cf. also *Zucht* v. *King* 260 U.S. 174 (1922).

56. 321 U.S. at 166–167 (1944).

57. Leo Pfeffer, *Church, State and Freedom*, revised edition (Boston: Beacon Press, 1967), pp. 696–697.

58. *Board of Education of Mountain Lakes* v. *Maas* 152 A.2d 394 (1959).

59. *Cude* v. *State* 377 S.W.2d 816 (1964).

60. *Matter of Gregory S.* 380 N.Y.S.2d 620 (1976).

61. *McCartney* v. *Austin* 293 N.Y.S.2d 188 (1968).

62. *Matter of Elwell* 284 N.Y.S.2d 924 (1967).

63. But cf. *Maier* v. *Besser* 341 N.Y.S.2d 411 (1972), in which the exemption was granted to one if he could show that his faith, unidentified in the opinion, was substantially similar to Christian Science.

Christian Scientist objected to the requirement that all students at the University of Washington were to submit to a chest X-ray. A court held that the university had a legitimate interest in the health of its students and could legally guard against a contagious disease like tuberculosis.[64] A member of the General Assembly and Church of the First Born attacked a school vaccination law as being an unconstitutional infringement on religious liberty. The court ruled that public health is a paramount interest and the law could stand, regardless of plaintiff's religious objections.[65] As a result of that ruling, the members of the church withdrew their children from public school and started a parochial school for unvaccinated children. The court ruled that the vaccination requirement was still valid because the state's interest was in preventing disease, rather than where the children of this church went to school.[66]

One other broad attack against public health procedures has been religiously motivated suits against the fluoridation of city water supplies. Because fluoridation is perceived to be enforced medication, those with religious objections to medicine have tried to prevent it, with no success.[67]

The problem with these attempts to dispose of public health laws by religious objectors is twofold. If they succeed in winning an exemption from the law, only they are affected and this presents no great danger to the public. But if they succeed in striking down a public health law, then the entire population is placed in jeopardy. Secondly, this use of the free exercise clause to impose a particular theological viewpoint on the entire society would be a violation of the establishment clause.[68]

In this area of rejecting medical care, the stakes are high. If one allows another to die by withholding medical treatment, one may be charged with manslaughter, and it has been consistently held that religious belief is no defense. For example, a woman denied her daughter medical care because she believed that God would heal her, a belief based on James 5:14–15. The girl died and the mother was convicted of manslaughter, although, on appeal, she was acquitted on other grounds, which usually happens.[69]

In the light of *Sherbert* and *Yoder*, can *Prince* still stand? Yes, for the state has an interest in the welfare of the community. Even *Sherbert* and *Yoder* contain language which recognizes that civil authorities may intervene when physical harm and threats to community welfare are the results of religious activity. But civil authorities should be carefully monitored to see that they move with caution and circumspection even in this sensitive area of health, for religious liberty is a *constitutionally* guaranteed right and is one of the most cherished liberties Americans possess.

64. *Holcomb* v. *Armstrong* 239 P.2d 545 (1952).

65. *Wright* v. *DeWitt School District* 385 S.W.2d 644 (1965).

66. *Mannis* v. *State* 398 S.W.2d 206 (1966).

67. *Baer* v. *City of Bend* 292 P.2d 134 (1956).

68. Cf. Paul G. Kauper, "Government Limits to the 'Free Exercise' of Religion," in *God's Call to Public Responsibility*, ed. George W. Forell and William H. Lazareth (Philadelphia: Fortress Press, 1978), p. 19.

69. *People* v. *Arnold* 47 Cal. Rptr. 525 (1966). There is an exception to this, *State* v. *Sandford* 59 A. 597 (1904), but it is an old case which has been consistently decided against. Cf. generally, 100 ALR2d 514, § 24 and Catherine W. Laughran, "Religious Beliefs and the Criminal Justice System: Some Problems of the Faith Healer," *Loyola University of Los Angeles Law Review* 8 (June 1975):396 at 405–408, 413–424.

Book Department

INTERNATIONAL RELATIONS AND POLITICS

JOSEPH I. COFFEY. *Arms Control and European Security: A Guide to East-West Negotiations*. Pp. 271. New York: Praeger, 1978. No price.

Stockholm International Peace Research Institute. *Tactical Nuclear Weapons: European Perspectives*. Pp. xvi, 371. London: Crane, Russak, 1978. No Price.

How—if at all—might the armed confrontation in Europe be made less burdensome, less horrendous, more stable, and more conductive to detente? It is hard to estimate which are the more numerous: reasons why we must bend every effort to this goal; alternative proposals for reaching it; or reasons why none of them are apt to be tried any time soon. Policy makers and academicians who refuse to be daunted by the obstacles will find both of these books very useful.

Coffey (whose thought on tactical nuclear weapons also appears in the SIPRI volume) is the painstaking incrementalist. After establishing his concept of the theory and requirements of arms control, he sets about to "begin modestly, with reductions which do not markedly alter military capabilities and with deployment restrictions which can convey reassurances disproportionate to their military implications." With core chapters on strategic arms, tactical nuclear forces, conventional forces, and "overall restrictions," he examines in each case the doctrines, anxieties and stakes of each side; various proposals for reduction, redeployment and/or restructuring of forces; pros and cons of same; his own conclusion as to what might be feasible.

The highly motivated reader (no one else will get far) finds himself driven to despair by the familiar asymmetries in doctrine, weaponry, deployment, and alliance relationships. Even so, Coffey frequently concludes that reductions of 10–20 percent in existing forces, redeployment rearward of forces with most offensive potential, and renunciation of the first-strike option should be possible without shaking up either the objective or the subjective security of either side. Let it be repeated, however, that these conclusions are offered only after thorough recounting of caveats, difficulties and objections attending a wide range of alternatives. In any case, the book establishes its author as an authority on MBFR.

One would expect a SIPRI book to be more impatient with existing doctrine, more ready to demand that we "think anew, act anew, disenthrall ourselves." Indeed, the second volume under review is a good companion piece to Coffey's, not only for its more thorough historical account of the evolution of tactical nuclear doctrine and deployment, but also for its more insistent questions about the rationality of present strategies, and its exploration of a wider variety of alternatives.

Tactical Nuclear Weapons was the occasion for, and product of, a conference held in October 1976. The ten participants, each of whom wrote a chapter, consisted of three Americans (Coffey, Leitenberg, Shreffler), and one each from Yugoslavia (Sukovic), Poland (Multan), Finland (Miettinen), USSR (Milshtein), Sweden (Prawitz), West Germany (Afheldt), and SIPRI (Barnaby). The titular "European perspectives" refer to the views of these authors, not to a systematic canvass. There is wider agreement about the unacceptability of the status quo than about where we ought to go from here, as of course one would expect. The points both of consensus and of disagreement are eminently worth the reader's while.

Four chapters deserve special mention: Leitenberg's historical analysis of the entry of tactical weapons and doctrine into NATO; Sukovic's account of strategic doctrines of NATO and WTO, and of the characteristics of their respective weapons; Afheldt's case for precision-guided conventional munitions as the core of a NATO force; and Shreffler's intriguing argument for centering NATO's defenses around a small neutron bomb. Shreffler's bomb has a yield of less than one kiloton (but high anti-personnel capability); is useful *only* in defense; could be fired by precision-guided missiles established up to 100 kms from the border, and used only on forces that have already crossed it; is managed by troops so widely dispersed and mobile that nuclear weapons cannot be used efficiently against them. The attractions of such a weapon, of course, are that it overcomes the classic problem that A's deterrent is B's threat, that it can be used effectively against an invading army without causing extensive collateral damage, and that it reduces the feasibility of, and the occasion for, a pre-emptive strike. An effective, defense-only weapon is especially relevant to the extent that the authors (including Coffey) are right when they say that both sides assume that the other will strike first, and plan accordingly.

Shreffler's proposals find a kind of clandestine rebuttal from Miettinen, who disputes his data on collateral damage, and several others who would draw the line at any nuclear weapon. Readers will be frustrated because the authors sometimes argue past one another instead of confronting their differences head-on. But they will not fail to be stimulated.

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RICHARD ESPY. *The Politics of the Olympic Games*. Pp. xi, 212. Berkeley: University of California Press, 1979. $10.95.

The basic premise of this work is that despite the protestations of Olympic Officials, television commentators, and some athletes, the modern Olympic Games represent a significant international political event. The altruistic ideals of brotherhood, peaceful co-existence and competition associated with the Olympics serve only as moral justifications for an event which was founded for avowed military and political purposes and continues to reflect existing political controversies and alignments. In fact, the Olympic movement, also known as Olympism, and particularly the deliberations of the International Olympic Committee (I.O.C.), have served as a forum and even a testing ground, for international economic and political relations. It is not the playing field that is the athletic substitute for war, it is the conference room of the IOC and other sporting federations.

Richard Espy looks at the Olympic Games as they have been staged since the second World War. He does not focus on themes which reflect the changing nature of specific events such as the use

of drugs by track and field athletes. Rather, the author looks at four significant international controversies during the time period 1944–1976 and describes how the Olympic Games was affected by each: the questions of German unification; two Chinas; apartheid in South Africa and Rhodesia; and the decline of the nation-state in favor of regionalism in government and business. As these issues dominated the world political scene, so, also, did they dominate the Olympics. Time and time again IOC officials had to make decisions on participation, boycott threats, and even the proper name of a country because of the current political climate. Decisions on the nature of events seemed secondary.

Throughout this time period, the IOC demonstrated that it was a hypocritical body which made decisions on the basis of political expendiency rather than on the principles defined by its charter. Often a double standard was applied. For example, Indonesia was suspended for barring Isreali athletes from competing in the Asian Games while nothing was said with the United States would not grant visas to East German athletes earlier. The IOC proved to be relatively inflexible in considering the China, Germany, and Korean questions of unification. In effect, the IOC was intruding into politics when it demanded unified teams or, in Taiwan's case, a name change. The IOC finally capitulated when it realized that world politics would never permit unification.

The fact that these events have affected the staging of the Games forces Espy to conclude, correctly I believe, that the event and the organizations affiliated with the Games have become more important than the competition or the athletes. This displacement or original goals is tied to the fact that a successful performance seems to have symbolic value as a source of prestige and power in world politics. Espy may exaggerate here but he does assert that acceptance into the Olympic movement for a country like Taiwan, or Ghana, is treated as equivalent to worldwide diplomatic recognition. It has yet to be demonstrated, however, that this prestige can be transformed into political power. United States victories in the 1964 and 1968 Games did not seem to have an impact in Viet Nam nor did it prevent others from questioning our political and military resolve in the 1970s. This is a question that Espy does not address but must be empirically explored.

Politics, Espy concludes, are not an intrusion into the Olympic Games; they have been intrinsic to the Games since their origination. This is due largely to the Olympic emphasis on national identification, rather than on individual performance. In clinging to the nation-state association, the IOC is structurally and operationally inadequate to deal with regionalism, international networks of government, and economic entities as they currently exist.

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WALTER LAQUEUR. *A Continent Astray: Europe 1970–1978*. Pp. 293. New York: Oxford University Press, 1979. $15.00.

As one who has spent over 50 years studying the history and cultures of Europe (with more than a third of that time used for interviewing cross-sections of the populations in many countries both East and West), I find Walter Laqueur to be a most observant and perceptive interpreter of the European scene. His book, *A Continent Astray*, is one of the best accounts of Europe in the decade of the 1970s that I have come across. It is a concise and encyclopedic description of the various problems afflicting the European Community. It is also packed with highly knowledgeable interpretations of the difficulties that face a continent that is still a long way from being united—despite the recent election of a European Parliament and the fact that a united Community of Nine could be one of the richest and most powerful nations in the world.

In describing the inability of the European nations to come together, Professor Laqueur has borrowed the term "abulia" (invented by the French neurologist, Charcot), using it in the sense of a

paralysis of will and inability to engage in the activity that is necessary to bring the Community to its unity. It is difficult to refer to Professor Laqueur's point of view as being either pessimistic or optimistic, but he has little hope that the Euro-communist parties, with the possible exception of that in Spain, will be able to break away from Kremlin control —largely because of their dependency on the latter's financial largesse, plus their own inability to create a new political ideology that can separate them from the unrealistic premises developed by Marx and Lenin. Nor is he very optimistic that the Social Democrats in their various national guises will be able to keep the continent moving toward definite goals for the future.

Although Europe is more prosperous than it has ever been before in its history, it is less the intellectual center of the world than it was over the past two centuries. It has lost its utopian dreams and ignores present theories that utopias are sometimes necessary as guidelines to the future. Its nationalisms are as strong as ever with even new subnationalisms developing such as the Bretons and Corsicans of France, the Basques and Catalans of Spain, individuals in the southern and northern areas of Italy and Germany, and even such ancient splits as in Great Britian between Scotland, Wales, and England.

Laqueur's fear is not that the Russians will invade the West, since it would be difficult for them to pass undetected through the minefields that they have created between East and West Germany, but rather that Europe may be turned into a series of "Finlands" in which each nation engages in self-censorship in order not to arouse Russian displeasure. They may keep their freedoms, but they could well lose their independence to act as sovereign communities. Lying between the two world superpowers, Europe would prefer to keep as far away as possible from both, though their present insecurity stems from not knowing what Russia's intensions will be. Professor Laqueur is also not convinced that Communism in the Soviet Union will evolve into a more democratic political system. And, while the present sets the guidelines for the future, most Europeans do not know what kind of future they would like to create, except one that encourages a high material standard of living. The majority are convinced that the best part of their lives now lies behind rather than ahead of them.

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PAUL H. NITZE et al. *Securing the Seas: The Soviet Naval Challenge and Western Alliance Options*. Pp. xxxi, 464. Boulder, CO: Westview Press, 1979. $24.00.

This is a comprehensive study of contemporary options in the naval policies of the United States and its Allies. The "working group" which produced it is comprised of analysts from private, public, and academic communities who actively deal with naval issues. The result is an impressive statement of the naval problem and a series of specific findings and recommendations to guide future Western policy.

In view of the development and expanding scope of operations of the Soviet Navy, the study observes, recent American and Allied naval policy has been indecisive. As seen in budget allocations, particularly in the area of procurement, and in the force structures and technologies now evolving, a future naval policy is therefore uncertain. Much of the uncertainty, it is argued, arises in turn from uncertainty about the meaning and implications of the Soviet expansion, that is, the recurring problem of resolving capabilities with intentions. Acknowledging the intractability of that problem and the speculativeness of its own conclusions, the study then proceeds to examine the character of the Soviet Navy and its impact on the changing naval environment, concluding that "prompt and total sea control no longer seems to be a realistic option." Thus new options must be identified and pursued.

Toward that end, the study projects a series of requirements based not only on the strategic roles to which navies

must now respond, but also on a variety of conventional scenarios which are likely to shape future naval force needs. Among the latter, is large-scale conventional war with the USSR (attendant to a NATO theater war or to the continuing requirements for force *after* an initial nuclear exchange). Too little attention has been paid, it is argued, to that environment, an environment likely to focus on a battle for the sea lanes. Similarly, in the more common scenarios of limited war and peacetime presence, attention is being diverted from the proven versatility and utility of naval force, either for the application or the demonstration of western political will. Most important, across the entire spectrum of future combat and political environments, the United States must respond to the reality of the undiminished presence and expanding capability of the Soviet Navy.

In approaching that reality, however, the study demonstrates many of the difficulties and uncertainties which it seeks to resolve. The assessment of the naval balance is an immense task fraught with the problems of selecting the proper measures and ensuring that all requisite variables have been identified and accounted for. Those problems and the scenario dependence of projections necessarily introduce new uncertainties. Nevertheless, this book provides a comprehensive and responsible assessment of the contemporary balance and offers a coherent response. It is worthy of serious attention.

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NADAV SAFRAN. *Israel the Embattled Ally*. Pp. ix, 633. Cambridge, MA: Harvard University Press, 1978. $18.50.

Prof. Safran has developed an encyclopedic volume that begins with a brief, introductory review of the early history of Israel and focuses on the Arab-Israel conflict that has raged for the last thirty years. The text essentially is structured as two books. The first one covers the origin of modern Israel, from the founding of the ancient Hebrew civilization to the tragic Yom Kippur War of 1973. The second volume comprises an analysis of the international politics that involved Israel with the United States. The author carefully describes every major social, political, economic, and military development that carried Israel through four difficult wars.

The approach utilized in this study is on change and evolution, with particular emphasis on the dynamics and the implications of social change. Consequently, the politics of Israel affected the country internally as well as externally. For example, in May 1977 the Israeli electorate overthrew the Labor Party that dominated Israeli society for fifty years. More specifically, in discussing the Six-Point Agreement that would have resolved the Yom Kippur War of 1973, he points to the severe constraint experienced by the Labor Party that ultimately resulted in its downfall. "Ever since the first days of the war, Israelis have been nurturing deep resentments against its leaders, in charge of the country's defense and foreign policy for the failures that led to the initial disasters and subsequent heavy losses" (p. 512).

Externally, many powers were involved in shaping the destiny of Israel. Thus, England, France, West Germany, the Soviets, and the United States were deeply involved at various times, and developed a variety of relationships based upon their individual commitments to the Arabs. Obviously, the oil interests and spheres of influence are the key factors that shaped American and Soviet foreign policies in the Mid-East. The major social change occurred when Kissinger maneuvered the role of American foreign policy with the result that the United States emerged as the principal peace broker between the Israelis and the Arabs. The author skillfully analyzes the dramatic change that transformed Israel from a small, newly developed nation into an ally poised to block any communist control of the Mid-East

Israel continues to be featured in the headlines, especially since the formulation and implementation of the Camp David Peace Treaty. This fact makes Professor Safran's book not only appropriate but demand reading. Knowing the

historical background of Israel, learning about the external pressures that are dominated by the oil interests and the Soviet regime, and understanding the internal problems as evidenced by the complex political party structure, all can be better conceptualized by reading this voluminous but fascinating text.

Professor Safran structured a unique study combining his own knowledge of Israel with a distinctive analytical approach to the conflicting forces. The result is a lucid book that clarifies some puzzling questions of the Arab-Israel conflict. The only criticism is that the author does not follow traditional scholarly research procedures. Consequently, footnotes and references to other studies are completely missing. Even a recorded conversation between Foreign Minister Yigal Allon, and Secretary of State Henry Kissinger, does not mention the authentic source of this cited information (pp. 545–46). On the other hand, this deficiency is supplemented by an elaborate bibliography and an exhaustive index.

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NIKOLAI V. SIVACHEV and NIKOLAI N. YAKOVLEV. *Russia and the United States: U.S.-Soviet Relations from the Soviet Point of View*. Pp. xv, 301. Chicago: University of Chicago Press, 1979. $12.95.

If Americans want to understand the course of Russian-American relations, and the basic difficulties that underlie these relations, they should consider Russian perspectives as well as their own. Fortunately, this is now possible for readers of this book, the first volume on the subject that has been written by highly qualified Soviet Scholars for an American audience (published by the University of Chicago Press in its distinguished series, "The United States and the World: Foreign Perspectives").

As the authors state quite frankly, this book "has been written from the standpoint of historico-materialistic methodology . . . which may properly be called Marxist-Leninist" (p. xiv). The general theme is that whereas "republican America" and "monarchist Russia" got along quite well, with some notable exceptions, because they were both "exploitive class societies based on private property," the Soviet Union and the United States have not got along well, almost solely because of the refusal of capitalist America to cooperate with socialist Russia on the basis of "peaceful coexistence" (which is sometimes described as the basis of Soviet foreign policy and at other times as "a special form of class struggle").

Within this ideological framework, the approach is essentially a chronological and historical one. Six stages of Russian-American relations from the time of the American revolution to that of the Russian revolution are delineated: from 1776 to 1815, from 1815 to 1861, during the American Civil War, from 1865 to 1898 ("from friendship to estrangement"), from 1898 to 1917 (the coolest period in these relations up to 1917), and from the February to the November revolutions in Russia in 1917. Quite understandably, the Soviet period is described more fully.

In the United States, according to the Soviet authors, "the anti-Bolshevik campaign began with the first day of Soviet power" (p. 48), and the anti-Soviet view has persisted, in varying degrees, except among various "progressive" groups and some historical "revisionists," up to the present day. During World War II the Soviet Union bore the brunt of the German military offensive, and "it was precisely the Soviet Union that had rid the world of this Fascist plague" (p. 208). There is "no doubt as to who bears responsibility for the deplorable turn of events in American-Soviet relations" (p. 235) after the war. John F. Kennedy, like his predecessors, was obsessed with the "impossible" goal of achieving a decisive superiority over the Soviet Union. In the Cuban missile crisis his actions "brought the world close to a thermonuclear war," but "the efforts of the USSR in the matter of ensuring international peace were crowned with success" (p. 244).

Between the 1960s and 1970s "some elements of political realism" crept into the U.S. approach to the Soviet Union; and after Nixon's visit to Moscow in 1972 Soviet-American relations "became better than in any time since the Second World War" (p. 253). But, the authors assert in an epilogue written in June 1978, Soviet-American relations have been adversely affected by "the recent impact of anticommunist ideology upon U.S. policy and the use of so-called dissidents by some American politicians" (p. 264). "Americans," they advise sternly, "should hold their horses before rushing into 'human rights' drives elsewhere" (p. 269).

Unfortunately, while a reading of this book should help Americans to understand the Soviet Union better, it will do little to allay the doubts and concerns about Soviet ideology, behavior, and objectives.

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SIDNEY VERBA, NORMAN H. NIE and JAE-ON KIM. *Participation and Political Equality: a Seven-Nation Comparison.* Pp. xxi, 394. New York: Cambridge University Press, 1978. $19.95.

This book is an attempt to answer the question posed at the end of *Participation in America* (Verba & Nie, 1972)—"Why is the association between social class and political participation more significant in the United States than in any other developed democracy?" The investigation spanned seven countries, two developed democracies, Austria and the Netherlands, besides the USA; and Japan, Nigeria, Yugoslavia and India. As far as possible the authors administered the same questionnaire in all seven polities. Substantial differences were found along the dimensions of political participation examined. These were voting, contacting officials, campaigning and communal activities.

The answer that the authors expected to their fundamental question was that the differences between countries could be explained by the variations in the strength of group-based forces, particularly political parties, between one country and another. Hence the weakness of party organization in the United States would be responsible for the steeply descending gradient of political participation as one moved down the American social scale. In other democracies the mobilizing strength of the political parties of the less socially and educationally endowed tended to make the gradient less steep and compensated for deficiencies among the less-privileged groups.

The authors found that what they call "institutional interference" differs, however, in its impact as between voting and campaign activity. As far as voting is concerned, party organization is more likely to make for political equality by raising the participation level of lower-status citizens. With regard to campaigning, party organization is likely to be a factor favoring political equality by lowering the participation level of higher-status citizens. These are only relativities: they do not alter the overall situation of higher-status citizens tending to participate more in all forms of political activity.

There are other very interesting findings in respect to variables and countries. For example, voting amongst men and women of similar educational and institutional circumstances does not vary according to sex; but with other forms of activity at the same levels men predominate. In Yugoslavia there is a strong link between socioeconomic level and political participation: the League of Communists is the mobilizing agent but its membership is disproportionately from higher-status citizens. Austria, Japan and the Netherlands have the highest proportion of citizens organizationally affiliated.

Yet it often seems to be a search for an explanation of relatively high American nonparticipation that haunts the book. The authors write:

> The society in which institutional constraints are weak and in which individuals are "free" to follow their own inclinations towards political activity . . . is likely to be a society in which political activity is highly stratified in social and economic terms.

There is almost an implication that in European democracies where electoral turnout or party membership among lower-status people is comparatively high, such as the Netherlands or Austria, the institutional constraints are in some way an impediment to freedom. A possible explanation of the similarity of Yugoslavia, India and the United States in terms of a significant relationship between social class and political participation might be that in these three countries institutional constraints are weak because other factors, largely of an inegalitarian nature, are strong.

It is not possible, however, in such a short space to do justice to the book, which will be an authoritative work for some time. Although its style is turgid, too frequently lapsing into sociologese, its presentation is excellent and the statistical data is particularly well handled.

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AFRICA, ASIA, AND LATIN AMERICA

HOYT ALVERSON. *Mind in the Heart of Darkness: Value and Self-Identity Among the Tswana of Southern Africa.* Pp. xiii, 299. New Haven CT: Yale University Press, 1978. $19.95.

GERHARD TÖTEMEYER. *Namibia Old and New.* Pp. x, 258. New York: St. Martin's Press, 1978. $19.95.

Alverson sets himself an imposing task, to examine the relationship between institutions and individual consciousness, to write a philosophic meditation on materialism and idealism. The Tswana are a people who, although they have given their name to the state of Botswana, are divided by the Botswana/South African border. In fact, only one-third of the 2 million Tswana live in Botswana; two-thirds are in South Africa, now constituted into one of the more ludicrous Homelands, Bophutatswana. Alverson looks at three communities of Tswana in Botswana: first, people in Gaberone, the capital; second, a village on the line of rail and therefore comparatively advantaged; and third, a highly disadvantaged village in the Kalahari desert. He also examines a place of work to which Tswana migrate outside of Botswana, a Transvaal mine. His technique was to study a number of individuals in depth over a longer period of time rather than a large interview sample studied at one point in time. What were the perceptions of home, of town, of mine, of alien economic supremacy, white and capitalist, in a politically independent state? How was their individual consciousness modified by and how did it respond to the socioeconomic patterns of capitalist Southern Africa?

Some of the book conforms to the classic definition of Sociology, that it is statement of the most obvious in the most elaborate language. It is, for example, scarcely an earth-shattering revelation that the disadvantaged people of the Kalahari had a rather more favorable view of the town and labor than those in the somewhat more advantaged community. However, the really valuable part of the book is where Alverson allows his subjects to speak for themselves. The Tswana indulge in a form of self-praise heroic poetry in which they depict themselves, often with a touch of irony, as heroes coping with life's difficulties. They are, moreover, like so many other people, fascinated by the idea of the trickster blending cunning and opportunism in the struggle with the environment. Although attachment to home and the rural life remains powerful for the Tswana, experience of town and labor migration has become one of the critical life experiences among a people that sees experience rather than age as the significant criterion in the maturation process. Coping with the town and the labor experience has become a heroic struggle for the human trickster. Instead of experiencing the psychic scars of colonial bondage, the Tswana have turned the relationship into a personal expression of individual will to cope, to survive, to be a hero.

The work is sociological, anthropological, psychoanalytic. It may therefore seem cavilling to say that Alverson

is both a bad historian and a bad economist. He indulges in a number of curious ambivalences. His social scientific method alternates with extraordinarily impressionistic passages, as in his description of the mine. He is shocked by working conditions and the extent—or lack of it—of economic opportunity, yet he recognizes the positive aspect produced by Tswana "self-will." But he fails to follow up all sorts of lines of enquiry: for example, notions of individualism and social mobility, the escape of the young from a rural gerontocracy. He fails to examine concepts of reinvestment, raiding the cash economy to improve one's position in the traditional economy. He perpetuates the old "target worker" myth which has surely been exploded long ago. He fails to recognize that so-called traditional life is itself a reflection of great social and economic change in the twentieth century. When writing ecstatically, for example, of every Tswana's desire to plow, he entirely fails to recognize that the plow is itself a twentieth century import, bearing in tow all sorts of social and economic change in, for example, the sexual division of labor. He passes tantalizingly over some aspects of his findings, such as the Tswana failure to identify with the state of Botswana. Is it because they recognize that a wider political and economic region, patterns of dominance beyond the control of Botswana, are more critical in their lives? How fascinating it would be to study similar reactions of the Tswana in Bophutatswana across the Botswana/South Africa frontier.

Namibia Old and New is a poor signpost for the actual material of this book. The subtitle, "Traditional and Modern Leaders in Ovamboland," shifts the reader's perception of the content considerably, for Ovamboland constitutes only a small fraction of the total area of Namibia. Yet there is some justification for confusing the two. Ovambos constitute no less than 46.3 percent of the total population of Namibia. Moreover, although their territory is the extreme northern part of Namibia, furthest away from the center of political and economic power in the south, they have played a crucial political and military role in resistance to South Africa's policy in its dependency. Ovamboland was to be a classic Homeland, a territory more densely populated than elsewhere in that arid country, where traditional leadership had largely survived (because the Germans had not used the genocide tactics against the Ovambos that they had used against the Hereros and other Namibian peoples before 1914), a territory with an emergent educated elite based on the long tradition of missionary activity in the area.

But the Ovambos were to have none of the Homeland concept. The traditional leaders, whose authority in the first Ovambo executive councils far outran their educational capacities—many were illiterate— quickly isolated themselves as South African collaborators. Ovambo politics became progressively more radicalized, partly under the influence of the new elite, partly as a result of the resistance of Ovambo labor migrants. As the radicalization ran far ahead of South Africa's political responses under international pressure, the usual cycle of trials and bannings ensued. On the now classic pattern, the persecuted radicals became a government in exile leading a guerilla movement, particularly facilitated, of course, by the independence of Angola in 1975. The international community, in effect, came to identify Ovambo politics with Namibian politics, for SWAPO is essentially an Ovambo movement.

Tötemeyer charts this progress in a number of ways. He examines elite formation, the activities of the churches associated with that, the inadequacies and ineffectiveness of Ovambo Homeland institutions, and the emergence of labor movements and parties. By a series of interviews he sets out to discover Ovambo perceptions of: different elites, education, various aspects of employment, migration, Ovambo as against Namibian politics, South African and outside agencies. The conclusions are clear. Ovambos reject traditional authorities, place a high premium on education and the professions, wish to think in terms of Namibian rather than Ovambo politics,

and look to outside agencies, government-in-exile and international institutions, to destroy South Africa's grip on their country.

The book is, however, full of confusions. Tötemeyer is a South African who was expelled from the National Party for his liberal views on Namibia. He writes as a liberal, identifying a moderate middle ground in Ovambo politics that could have been encouraged by an enlightened South African government. His liberal anxiety permeates the work, that a repressive South African regime has only produced progressive radicalization and greater dangers for itself. Because of the shifting Ovamboland/Namibian focus, the book has considerable structural difficulties. Often explanation is inadequate: Katutura, for example, features extensively in the text, but it is not explained that it is the Ovambo location of Windhoek until p. 166.

Tötemeyer is South African enough to refer to Ovamboland as a country (p. 142), and to South Africa's beginning to develop Ovamboland (p. 144), although it is very noticeable that planning ideas emerged only after the 1971 judgment of the International Court of Justice at the Hague. But most extraordinarily of all, Tötemeyer's interviewing is a mystery. He never adequately explains the size of his sample, how he selected it, who constituted it, nor the actual techniques of interviewing used. The first table of interview results appears (p. 58) as from nowhere, and none of the many subsequent ones is fully explained.

This is an interesting book from the viewpoint of a liberal South African academic, and it gives credence to many outside perceptions of Namibia, but it suffers from grave structural and technical defects.

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PAUL W. DRAKE. *Socialism and Populism in Chile: 1932–1952*. Pp. 418. Urbana, IL: University of Illinois Press, 1978. $15.00.

Professor Drake's detailed and objective account of Chilean political development since 1920 is of interest more to students of that South American republic than to those who are attracted to the theory and practice of socialism. Strong on facts and statistical analysis and interpretation of political parties and electoral results, the book lacks focus and fails to present the feel and flavor of the times. Only one personality, Marmaduke Grove, long since forgotten, stands out in an otherwise impersonal approach to a highly personal and human subject. Further, the treatment of certain important historical events, such as the abortive ultra-right uprising of September 5, 1938, is totally inadequate.

A more suitable title for the main body of the work would have been *The Failure of Socialism* or, at least for the Epilogue covering the years 1952–1973, *The Failure of Allendism*. Drake correctly points out that socialism made little headway during the period of the popular front but fails to emphasize that its principal failures during the three years of the Unidad Popular were attributable to Allende and Allendism. The current consensus is that military intervention was *not* inevitable.

Socialism in 1932, writes Drake, meant all things to all men, a catchword to cover virtually every form of social progress. "Socialism became, to many deprived Chileans, a symbol of hope." By deliberately confining himself to the socialist viewpoint and development, Drake gives inadequate coverage to the competing populist movement of the Christian Democrats which, although of only slight importance during the period between the second Alessandri Palma Administration and the end of the Radical Party presidencies, deserves more attention in the Epilogue. A further defect is the author's failure to understand why the military action following the 11th of September (1973) was so "ferocious and Draconian" in contrast to the "traditional" Latin American coup. Professor Drake would have made a greater contribution if he had limited himself to the

period 1932–1970 or if he had devoted the same thorough research to the subsequent years as he has given to the earlier decades.

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FRANCINE R. FRANKEL. *India's Political Economy, 1947–1977, The Gradual Revolution*. Pp. 600. Princeton, NJ: Princeton University Press, 1978. $35.00. Paperbound $12.50.

Francine Frankel argues that radical social change in India is probably a prerequisite for the realization of the economic growth and equity aspirations of India's leaders since Gandhi. At the same time, however, ideological unwillingness and operational inability have stopped that leadership from effecting the mass political mobilization, especially of the rural poor, necessary to push reforms, most obviously the breaking once and for all of the power of the landed castes. The result is a gap between promises and achievements that threatens the stability of political order. As Frankel sees things, India has tottered from crisis to crisis in its years of independence. She recounts episode after episode of economic, political, and social failure. In 600 pages one must search to find one complimentary remark, one acknowledgement of achievement, or one voiced ray of hope. While the prose is excellent, if flamboyant and hyperbolic at times, the account has so strong a negative basis that it will make painful reading for anyone who thinks the three decades since 1948 have brought considerable economic, political, and social progress.

The book is primarily a detailed account of modern Indian political history. The key figures are the well-known leaders of India's Congress and other political parties: Gandhi, Nehru, Ram, Desai, Indira Gandhi, Kamaraj, Shastri, Subramaniam, and others. No other book provides such a detailed gloss of this era, and this is its major positive contribution. Nonetheless, there are many things the book is not. Despite its title it is not really about political economy. There are numbers about the economy and discussions of plans and projects, but there is no economic analysis. The facts and numbers are relevant only in the context of what they mean to the political games being played; the economy has no independent existence.

At the same time the political analysis is unsatisfactory in several respects. The focus on the coterie of leaders jockeying for the top posts creates a top-down perspective; one is a long way from the ecological grass-roots of India's politics. There is little systematic effort to use data to validate propositions: about who supported which party, what their economic and social characteristics were, what they gained from their support. No regard is paid to the various studies that have suggested that Frankel's thesis, put forward in her earlier book, *India's Green Revolution*—that the rich farmers have benefited disproportionately from the new agrarian technologies, with polarizing and possibly calamitous results—may have been premature and inaccurate. No firm empirical basis is established for the rampant negativism about India's economy. It is stated that major portions of the book are based on interviews conducted at various times by the author but there is no schedule of these, apart from random footnotes, and it is specifically stated that attribution has been minimized since most were off the record and naming names might embarrass extant politicians. At best, this is journalism not political or economic science.

What is most troublesome is Frankel's unwillingness to see India's political system as a process, as an on-going set of political, economic, and social experiments. She takes as absolute the values—growth, income equity, mass democracy, abolition of poverty—and specific plan targets put forward by the leadership, and is profoundly dismayed when reality does not measure up. By this test no society can ever succeed and much the same kind of book could be written about the modern Soviet Union, the

United States, or China. A just society is not a goal but a procedure; democracy is not an aim but a process; economic planning and its implicit or explicit targets are not ends but instruments.

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JAMES M. FREEMAN. *Untouchable: An Indian Life History*. Pp. viii, 421. Stanford, CA: Stanford University Press, 1979. $18.95.

This is the life history of Muli, an untouchable living in a village near Bhubaneswar,the capital of Orissa state on the east coast of India. Freeman, an anthropologist, has compiled and edited Muli's life history from a series of interviews conducted over a six month period. The story begins with Muli's birth in 1932 and ends in 1972 when he was interviewed by Freeman. It is organized around three phases in Muli's life: his childhood and youth, his young adulthood beginning with his marriage, finally, his mature years beginning with a business venture that eventually fails. Various situations, incidents and events reveal something of Muli as a person and highlight how various facets of the contemporary Indian scene have impinged on him.

Pervasive poverty and caste oppression are two factors that condition all phases of Muli's life. As a youth, Muli discovers he can avoid the menial labor that is his father's lot by providing low caste girls to high caste men. Pimping is easier than stone quarrying, but it violates caste rules. Later, Muli is successful selling betel in an urban market, a rare venture for an untouchable. But this business fails largely due to Muli's being tricked (bewitched) into a second marriage he cannot afford. The end of the book finds Muli facing disaster, having been cheated out of his sharecropper's due by a miserly high caste landlord.

Muli's life shows that untouchables are constantly cheated, exploited, and treated with contempt by high caste people. Muli tries to transform his pimping relationships with high caste men into lasting friendships but they never endure; and his relationships with family, kinsmen and other caste members are also charged with tensions. His father deplores his laziness and caste violations. His once indulgent mother becomes critical when Muli marries. His wife cajoles him when he wastes his money or is unable to support his family. Muli's easiest relationships seem to be with some transvestites with whom he works and plays. But even these do not last.

While Muli is not typical nor even particularly likeable, his story dramatizes the human dimension of poverty and untouchability in India. His story is told simply and directly wihout jargon or theoretical posturing. It is a welcome addition to the antropological literature on cross cultural biography and South Asian Studies.

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SAMUEL S. KIM. *China, the United Nations, and World Order*. Pp. xviii, 581. Princeton, NJ: Princeton University Press, 1979. $32.50. Paperbound $12.50.

Professor Kim's book falls into three fairly distinct parts, each of which could stand by itself. The first is an essay on continuity and change in China's image of the world from the Ching Dynasty to the late Mao period in which Kim acknowledges that present foreign policy is still a projection of domestic politics infused with a heavy moral tone but argues that traditional arrogance and status quo policies have been replaced by an "underdog perspective" in which the concepts of the just war and revolutionary violence serve China's present stress on "world justice" rather than "world order." This modern view is exemplified by Mao's "great strategic concept of the three worlds" in which China is firmly cast as a Third World state pitted against the two Superpowers in a struggle for global redistribution of power and resources, with

Europe, Japan, and Canada occupying an abiguous middle ground. Of considerable interest is Kim's tracing of how the pragmatic three worlds concept evolved from the earlier and more dogmatic two camps doctrine during the period 1956 to 1974.

The heart of Kim's opus is an analysis of China's pronouncements and voting behavior in the General Assembly, the Security Council, and the specialized agencies with emphasis on UNESCO, FAO, ICAO, and WMO, during the five years following China's entry in 1971. For reasons he makes explicit, Kim has deliberately chosen the UN as a controlled framework within which to measure China's deeds against her words. He finds that although Chinese delegates used every available forum to lecture their colleagues on the dangers of social imperialism, they have proved to be diligent participants in UN councils, rarely absent, seldom using their Security Council veto, and even reluctant to cast a negative or abstaining vote, rather pioneering a fourth option—not voting—to indicate attendance and concern but partial disapproval, an option other delegates subsequently began to exercise.

China remained most skeptical about peacekeeping operations because of her experience during the Korean War, and moderately aloof from technical questions, including international legal negotiations, preferring to treat the UN as a political arena rather than accepting particularistic instrumental obligations, disappointing writers who place hopes on a functionalist path to world order. On the other hand, the Chinese style was judged consistent and sincere and was accepted as authentic by most delegates, particularly those from the Third World whom the Chinese cultivated with skill.

China's greatest enthusiasm was reserved for the three resolutions proclaiming the New International Economic Order (NIEO) in 1974, for China correctly perceived their fundamental political character, antihegemonic implications, and symbolic thrust against present structural constraints working against poor nations. The somewhat surprising Chinese passivity in the subsequent NIEO implementation process was consistent with her commitment to self-reliance and nonentanglement, her reluctance to importune rich countries for aid of which she was wary in any event, and certain conceptual contradictions between the NIEO and the three worlds concepts. This notwithstanding, China's participation in the UN has mutually legitimated the goals and activities of both.

In the third part of his book Kim attempts to wed Chinese foreign policy to world order studies, particularly the World Order Models Project with which Kim worked at Princeton University's Center of International Studies. As a means of categorizing and assessing China's commitment to the four "planetary values" of peace, welfare, human rights, and ecological balance, this approach is not unreasonable insofar as it is systematic and makes the author's values explicit. However, the reader accustomed to straightforward prose may find the use of PV_1, PV_2, PV_3, PV_4 and WOMP gratuitously scientistic and wonder if it is just a dutiful nod by a grateful student to his Princeton mentors and Johan Galtung.

Now a full professor at Monmouth College, Kim has given us the most comprehensive and well documented study of Chinese foreign policy in the context of her UN participation 1971–1976 published to date. It is a valuable contribution.

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JAYAPRAKASH NARAYAN. *Prison Diary*. Pp. 156. Seattle: University of Washington Press, 1978. $8.95.

J. P.'s *Prison Diary* has already become something of a classic in India. Written during his incarceration without trial from 21 July to 4 November, 1975, it was smuggled out of the country and appeared in excerpted form in *The New York Times*. Now that the long night of the Indian Emergency is over, the second edition appears with a few additional entries.

In solitary confinement for the most part, often wracked by pain and sickness, India's greatest living Gandhian records his despair, his shock, his outrage at the throttling of all political freedom in the world's largest democracy. The opening lines set the tone: "My world lies in shambles all around me. I am afraid I shall not see it put together again in my lifetime. Maybe my nephews and nieces will see that. May be" (p. 1).

There are long passages of introspection and self analysis, for J.P. had become the protagonist of the movement that Indira Gandhi used to justify her imposition of the Emergency. What had gone wrong? What responsibility did he bear? He had been wrong "in assuming that a Prime Minister in a democracy would use all the normal and abnormal laws to defeat a peaceful democratic movement, but would not *destroy* democracy itself (p. 1). He had not been able to believe "that even if the Prime Minister wanted to do it, her senior colleagues and her party, which had such high democratic traditions would permit it (p. 1).

J.P., the ex-Marxist and Socialist, suspects the pro-Soviet Communist Party of India of having their own plans for the future of the Emergency. He believes that there must have been two pre-Emergency plans; one to which Mrs. Gandhi was privy which she believed was actually her own plan, the other a Soviet plan which the Indian Communist Party was made to believe had "emerged from their own brilliant heads . . . The latter plan was to take effect at the point of transition from social democracy to undisguised communist dictatorship" (p. 6).

A large part of the *Diary* has to be devoted to explicating J.P.'s theory of "Total Revolution," for it was in pursuit of this ideal that he re-entered politics in 1974 by becoming leader of the movement which sought to topple Indira Gandhi's Congress rule in Gujarat and Bihar. The movement had begun without him. But in its configuration he saw the seeds of his longed-for vision of the Good Society; one in which all segments of the population rose spontaneously to cleanse society and government of corruption and cant; a movement which led to basic changes of attitude in all parts of life: "social, economic, political, cultural, ideological, educational and spiritual" (p. 87).

But the draconian Emergency tempered this dream. The need for the movement was the uniting of all democratic opposition parties to fight Indira Gandhi's Congress rule if the Emergency was ever lifted: "There is no possibility in sight and in the near future of India having any other type of democracy than she has today. Hopefully, if the Opposition wins the next parliamentary elections, the present constitution and the electoral laws and rules might be improved. But the 'type' of democracy will not change much" (p. 59).

How that happened, and the great role J.P. played in it, is now part of history. *Prison Diary* gives invaluable insight into the unconquerable mind and spirit of the man who played that role.

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LAURENS BALLARD PERRY. *Juárez and Díaz: Machine Politics in Mexico.* Pp. xvi, 384. DeKalb IL: Northern Illinois University Press, 1978. $25.00.

PETER H. SMITH, *Labyrinths of Power: Political Recruitment in Twentieth-Century Mexico*. Pp. xx, 467. Princeton, NJ: Princeton University Press, 1979. $25.00, Paperbound $9.75.

Laurens Ballard Perry's *Juárez and Díaz* and Peter Smith's *Labyrinths of Power* both examine Mexican politics in the post-Independence period. While the two authors focus their analyses on political elites, they utilize different methodologies and study different historical periods.

Smith concentrates on twentieth century Mexico. He collected information on more than 6,000 individuals who held public office between 1900 and 1976. He analyzes the social background of the political elite, the types of individuals who are most likely to reach the pinnacles

of power, career patterns, and the relationship between political and economic (industrial) elites. He highlights changes and continuities in patterns of recruitment in the prerevolutionary, revolutionary, and postrevolutionary periods, shows how different types of political elites differ in their social and economic background, and compares the different social origins of economic and political elites. And in contrasting attributes of the elite and the population at large he reveals how representative (or, more accurately, how unrepresentative) the elite are. In comparing characteristics of the political elite in Mexico with their counterparts in other countries he points to similarities and differences in elite recruitment among different types of regimes.

Smith's work exemplifies the best of elite analyses; it is carefully researched. To obtain biographical material on twenthieth century political elites the author consulted biographical dictionaries, newspaper and magazine articles, official documents, archival materials, and books, and he administered a survey to a group of officeholders. Secondly, while he does not have comparable information on all relevant elites, the analysis of the data that he succeeded in obtaining is systematic and well thought out. Most chapters explore interesting hypotheses. The study as such contributes both to our understanding of the Mexican political system and to the comparative study of political elite.

But, the analytical framework poses limitations. Smith, for example, draws on Juan Linz's seminal work and in so doing argues that Mexico is an authoritarian regime. He claims that his elite analysis confirms that Mexico is authoritarian, and that the political recruitment process in Mexico accordingly contrasts with the processes found in so-called democratic and totalitarian regimes. By focusing on elite recruitment, he is unable to question Linz's assertion that regimes can best be compared in terms of the degree of pluralism, mobilization, and ideological cohesiveness. In fact, certain of Smith's data suggests that Mexico is quite democratic: although Smith shows that political elites come from a limited segment of the society, he also shows that the regime provides a wide array of opportunities for political advancement and that elites circulate minimally every six years. Probably few stable regimes are, in these respects, as nonoligarchic as in Mexico. Furthermore, studies of official position holders do not necessarily convey an accurate picture of how political systems operate and why, because they only focus on the formal power structure. For this reason Smith cannot adequately explain why the regime rules primarily in the interest of capital even though capitalists rarely hold political office. Either capital wields power informally or structural forces compel officials in a capitalist society to rule in favor of capital, *irrespective of their own class background*. Elite theory does not provide the answer.

Perry addresses some of the issues that Smith does not, but in reference to an earlier historical period. In his study of the Restored Republic (1867–76), Perry describes how the regime diverged from its liberal premises and he argues that the origins of modern machine politics in Mexico date back to this period. Unlike Smith he highlights the informal machinations of the political system. He describes caudillistic rivalries, electoral violence, presidential intervention in local politics, and alliances between opponents of local and national incumbents. He argues that the principles of liberalism never were implemented because conditions at the time called for a strong executive. Economic opportunities were meager, thus competition for political office was intense. And because governors and local rivalries could undermine the power of the central government, presidents during this period built up political machines which included loyal regional politicians. While Perry devotes little attention to the social background of political elites, he describes how selective elites wielded political power.

Perry's analysis, however, is much less satisfactory than is Smith's. It is discursive, and not as finely researched. Futhermore, Perry never adequately

describes the political machines to which he alludes. He also never adequately demonstrates the relationship between the political system that evolved and underlying economic conditions. The book contains some interesting ideas about why Mexican politics differs in principle and practice and it helps put postrevolutionary Mexican politics in historical perspective.

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RODGER SWEARINGEN. *The Soviet Union and Postwar Japan: Escalating Challenge and Response*. Pp. xxv, 340. Stanford: Hoover Institution Press, 1978. $14.95.

This book was written to provide an update to the author's 1952 volume, *Red Flag in Japan* (co-authored with Paul Langer). Its engaging journalistic style, and the omission of macrons in Japanese names, titles and terms, seem designed for the nonexpert. For the specialist, a lengthy appendix contains postwar agreements and treaties, many rendered in English for the first time. There is no bibliography. Organizationally, the text is divided into five sections: Historical Perspectives, The Soviet Presence in an American-Occupied Japan, The New Japan Versus Soviet Intransigence, Economic Relations, and Diplomatic and Strategic Dimensions. As a whole, the book is thought-provoking but the author's treatment of the subject suffers from a lack of balance.

It is clear that Swearingen's major concern is communism, with the Soviet Union playing the leading role in communism's challenge to Japan. It is also clear that he believes that communism has changed little in the international arena since the cold war era which provided the backdrop for his earlier work. For example, his use of the adjective "independent" in quotes to describe the Japanese Communist Party, and his discussion of the party into the 1960s and 1970s is intended to give the impression that the Japanese Communist Party is not really independent of the Soviet Union. Similar use of the adjective "independent" to describe North Korean foreign policy and the inclusion of a short section on Chinese-Japanese relations in a book on Soviet-Japanese relations further indicate the writer's belief that communism as a unifying ideology is of more importance than national factors such as the Sino-Soviet split or Kim's unpredictability.

In addition to his emphasis on the continued existence of International Communism is Swearingen's negative characterization of this force. Peppered throughout the text are phrases like ". . . in view of the Communists' well-known proclivity for misrepresentation and opportunism." Supporting this is the frequent use of "buzz" words, such as "coexistence," "friendship," "culture," and "detente," set off in quotes to question their authenticity.

The best sections of the book are those with little or no ideological implications. The section on trade, for instance, gives a good, straightforward account of the economic reasons for Soviet-Japanese trade and the context within which this trade takes place. Less convincing are those sections, such as the section on security, which deal with political values and choices. Here, the author concludes, to borrow from the book's subtitle, the Soviet Union poses an "escalating challenge" to Japan. That Japan is seen as the victim in this relationship is amply symbolized by the illustration on the dust jacket which shows a small Japanese flag dwarfed by the shadow of a larger Soviet flag. Thus, Swearingen rejects neutralism as an option for Japan, opposes troop withdrawal from Korea and castigates American post-Vietnam policy as nonreassuring. These conclusions are not surprising considering the nature of his sources, which include Elmo Zumwalt, Andre Amalric and the superintendent of Japan's Defense Academy.

One searches in vain for alternative views. A more balanced account might argue, for instance, that in the USSR-China-Japan triangle, the Soviet Union would be disposed to act in a conciliatory manner toward Japan given Sino-Soviet hostility. *The Soviet Union and Postwar*

Japan thus paints a worst-case scenario, but the full range of Soviet-Japanese relations consists of less dire scenarios as well.

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P. J. VATIKIOTIS. *Nasser and His Generation*, Pp. 375. New York: St. Martin's Press, 1978. No price.

The author's main objective in writing this book is to interpret "Nasser as a ruler of Egypt at a particular period and juncture of that country's history . . . it considers Nasser to be representative of a generation of Egyptians, many of whom rode on his bandwagon to power . . ." (p. 15). In the reviewers' judgement, the author has, to a large degree, attained his stated purpose.

Nasser and His Generation is an account of a man's ascension to supreme political power and the events which shaped that rise. Vatikiotis stresses that the circumstances in which Gamal Abdel Nasser assumed personal control of Egypt were as active causally as they were a result of Nasser's own manipulation.

Egypt was in a period of transition during the time in which Nasser reached political consciousness, with the old political order and the monarchy being challenged by a new generation. Nasser submerged himself in the many activities of the day and in the wide spectrum of political thought on which he would build his power base until he, in turn, suppressed all ideology other than his own.

Gamal Nasser was born 15 January 1918. During Nasser's early years, he moved from town to town and school to school. Nasser's first experiences in political confrontation came through his involvement in Ahmad Hussein's group, Young Egypt. Egyptian nationalists were demanding the withdrawal of British control over Egypt and with this outcry, there were the seeds of several influential political organizations whose objectives were to fight the forces of colonialism. Egypt's established political party, the Wafds, was losing legitimacy among the populace, especially among Nasser's generation of disaffected youths. Young Egypt, the Muslim Brethren, and others began to challenge the status quo and its agents.

With the end of World War II, Marxist organizations began to radicalize the populace even more. Political agitation, sabotage, terrorism and assassinations had become the means toward freeing Egypt of British rule and removing the "old gang," but during this time Nasser was leading a relatively quiet life in the military. While others, like Anwar Sadat, were using the armed forces as a vehicle for terrorist activities, Nasser began establishing his power base. His political involvement was confined to organizing a group of young officers with whom Nasser began to see the possibility of a coup, an army movement, which he would control.

On July 23, 1952, he staged a successful coup, overthrew the civilian government, and established a junta to rule Egypt. An Agrarian Reform Act was passed, political parties were dissolved and their leaders imprisoned, and foreign holdings in Egypt were gradually nationalized. In all, Nasser consolidated his power and his opponents (most notably, Gen. Naguib) were eliminated, while the people of Egypt were aroused with his Liberation Rally.

From the 1930s to 1970, Egypt reflects not only the currents of revolution in the Mid-East, but also the political and military phenomena of Europe and the U.S. as seen from an Arab perspective. There are roughly six major international issues which served to change the Egyptian political arena during the life of Nasser: the diminishing British control in the Middle East, the establishment of an Israeli state, the appeal of Fascism in the 1930s, American contention for influence in the Middle East during the Cold War years, Soviet aid in arms and the spread of its political ideology in Arab nations, and the rise of Arab nationalism.

This book is significant in three related ways. First, it is a very timely and ap-

propriate subject in contemporary world affairs in the light of the historic Camp David Summit. A clear, coherent, and comprehensive perspective of the march of events in the Middle East is greatly needed. Vatikiotis' volume contributes to that perspective to a considerable degree. Second, the book is a concrete example of the use of biography to explain the psychosocial nature of national politics. The author is to be congratulated for his mastery of detail, and his valiant and successful effort to relate sociocultural context (Egypt and the Middle East) to the human actor (Nasser) and related actors (Nasser's contemporaries like Sadat). At the same time the author partly illustrates the role of the "great man" in the shaping of history.

In Vatikiotis' words: "What does interest me is the impact of a personality like Nasser's on the course of events affecting his country in the midst of all the impersonal, economic, social, and other forces of history." Third and finally, the book is a model of scholarship for the social scientists interested in the interaction between society and personality. Overall, this volume is a significant, timely, and interesting contribution to Egyptian and Third World scholarship and to culture-personality studies.

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LIN YÜ-SHENG. *The Crisis of Chinese Consciousness: Radical Anti-Traditionalism in the May Fourth Era*. Pp. xiv, 201. Madison: The University of Wisconsin Press, 1979. $20.00.

China's modern passage was as complex as it was tumultuous when the longest lived and most populous state and society went about adjusting itself to the modes and demands of the modern world. Adoption of modern ways would have been relatively straightforward were it not for the question of what to do with a past the greatness of which seemed to have been built upon principles antithetical to modernism. Yet Chinese views of life, nature, and human effort were rooted in it. The task and the process of change stagger the imagination now, to be sure; but they worked even harder the minds of those Chinese caught in this change. *The Crisis of Chinese Consciousness* is the latest of a number of excellent studies in the last twenty years that chart the intellectual course and style of this change.

Lin Yü-sheng's book, graced with a Foreword by Benjamin Schwartz, focuses on the May Fourth era and pursues the theme of "totalistic iconoclasm," which he uses interchangeably with "radical anti-traditionalism." The book devotes two chapters to the origins of totalistic iconoclasm, follows with three chapters on Chen Tu-hsiu, Hu Shih and Lu Hsun, and ends with a thoughtfull conclusion about what cultural iconoclasm holds for the crisis of culture in contemporary China.

The author eschews a simplistic view of a Chinese past taken and rejected as a whole by her modern intelligentsia. Rather, he finds in Chinese culture certain predispositions which shaped both the tradition and its modern iconoclasts. The notion of an integral wholeness of culture in which all aspects are connected through the political order, and the notion that ideas could play a decisive role in transforming human life, Lin finds tenacious in the Chinese tradition. May Fourth iconclasm, which the author labels cultural-intellectualist, inherits this monistic approach.

A close parallel is seen by Lin between May Fourth (in 1919) and the Great Proletarian Cultural Revolution of the mid-1960s. Both demanded cultural revolution, both were marked by iconoclasm toward traditional ideas and values, both were underlined by the assumption that political and social transformation must be preconditioned by rejection of the past, and that values and ideas could be transformed.

Even though Mao Tse-tung is not a principal in the book, he and his ideas form a backdrop to the whole theme. Thus, the "enormous Maoist emphasis on cultural revolution does not derive from the Marxist-Leninist tradition"

(p. 4). Accuracy of the statement aside, Lin credits Mao with primary emphasis on consciousness—a central feature of the May Fourth mode. Thus Mao is placed as a creature of the May Fourth habits of mind.

This is a book of many subtle ideas, once one gets beyond the many labels. One does wonder, however, if iconoclasm-as-form might have been taken to be substance. If the iconoclasm was so total, what was the substance of the new culture? After all, a new wholeness is as much a part of the holistic-intellectualistic thinking that characterized the times. Nationalism, scientism, and a few other holistic persuasions moved quite a few minds then. Further, the demarcation of the May Fourth as 1915–1927 is not conventional as claimed (p.8). The puzzlement is not with 1915, but 1927.

The general reader and the serious student will welcome this astute volume onto their reading lists.

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EUROPE

JOSÉ AMODIA. *Franco's Political Legacy: From Fascism to Facade Democracy*. Pp. 348. Totowa, NJ: Rowman and Littlefield, 1977. $15.00.

E. RAMÓN ARANGO. *The Spanish Political System: Franco's Legacy*. Pp. xi, 293. Boulder, CO: Westview Press, 1979. $20.00.

Spain's process of modernization began slowly and painfully in the 1830s. It was accompanied by a political process wherein the monopoly of power was concentrated increasingly in the hands of a relatively narrow landed oligarchy. The resultant tensions finally exploded in the overthrow of the monarchy in 1931 and the establishment of the Second Republic. In broad terms, it is now clear that the republican regime attempted to speed up the process of modernization, above all by breaking the power of the landed oligarchy through agrarian reform. The years of the depression were hardly a propitious moment for this enterprise. The determined resistance of the landowners and the frustrations of the landless labourers were the main ingredients in the savage political polarization which eventually led to the outbreak of civil war in the summer of 1936.

In many respects, it could be argued that the Spanish Civil War was fought in response to the Republic's challenge to the existing order of landed property. The victorious Franco regime was, in this sense, the arm of the landed oligarchy. Throughout the 1940s, its primitive and retrograde political structures adequately served the needs of the agrarian establishment. In addition, they inadvertently created the sort of labour relations which made Spain attractive to foreign investors. By the time of the tourist boom which began in the late 1950s, and of the European prosperity which was attracting Spanish migrant workers, Franco was presiding over a very different country from the war torn, semi-medieval one that he had conquered in 1939. Indeed, within a decade, Spain was to undergo even more spectacular change which was to push her into the major industrial league.

Inevitably, there were intense contradictions between Spain's burgeoning modern society and the archaic and repressive political mechanisms which governed it. Dr Amodia's book is essentially a work of what the Spaniards call *derecho político*, or constitutional law, which examines in great detail the regime's formal responses to those contradictions. The object of the political theorists used by Franco was to produce a series of constitutional texts which, while doing nothing to make real even the most minimal of human rights, was to convince international opinion that Spain was actually moving towards some kind of democratic system. In the years before Franco's death, these texts gave rise to a sterile and scholastic literature in which their exegetes speculated on their potential for real democratization. Dr Amodia's work usefully summarizes

this literature while avoiding its sterility and is likely to be the standard work on the Francoist constitution for some years to come.

Dr Arango's similarly titled work is altogether more ambitious and altogether less successful. Not only does the author set out to put the Franco regime in a context of two hundred years of Spanish history but also to destroy a number of myths about Spain. He is scathing about obvious myth makers like Hemingway and Ravel, and he even attacks less immediate culprits like Gerald Brenan and Franz Borkenau. Unfortunately, an agreeably readable style cannot compensate for the almost total absence of original research. Dr Arango fails to bring off his iconoclastic ambitions as well as producing a text so riddled with clichés and errors as to be recommended only with the most serious warnings about its reliability.

A reading of President Azaña's diaries would have prevented the author's astonishing assertion that an alliance between the left Republicans and the Radical Lerroux in 1931 was made impossible by Azaña's pique. A reading of Ramón Serrano Súñer's memoirs (Barcelona, 1977) would perhaps have refined the hackneyed statement that Franco dismissed him as foreign minister in 1942 in order to demonstrate his growing distance from the Axis. Equally, a lengthy analysis of the content of Franco's rhetoric and consideration of Franco's decision-making processes would have benefited from a reading of the dictator's table talk. Published in the diaries of his cousin, Franco-Salgado (Barcelona, 1976), those conversations suggest both a mediocrity and a tendency to leave politics to his subordinates which are not even hinted at by Dr Arango. One of the book's longest chapters is devoted to the anti-Franco opposition and hardly begins to consider the vast literature produced by the left-wing resistance movements. Indeed, in discussing the 1940s, when widespread armed struggle against the dictatorship was being carried out by anarchists, socialists, and communists, Dr Arango claims that opposition came mainly from disgruntled Francoists!

The book becomes more useful as it nears the present day and the elegance of its prose may commend it to the general reader. However, there are several works on the market of greater accuracy and originality.

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EDWARD W. BENNETT. *German Rearmament and the West, 1932–1933.* Pp. xv, 569. Princeton, NJ: Princeton University Press, 1979. $35.00.

During the 1920s and early 1930s, as most nations of the world sought, or pretended they sought, agreement on general disarmament procedures, Germany looked for ways to circumvent the terms of the Versailles treaty and rearm to a position where it could use its military strength as a potent weapon in the field of international diplomacy. In turn, fear of German rearmament lessened the chances of general agreement on disarmament provisions by Germany's neighbors, particularly France. It is the complex web of international negotiations over these issues during 1932 and 1933 that Edward Bennett has chosen to examine in microscopic detail.

Bennett systematically analyzes not only the relations between major powers regarding German rearmament, but also the development of policy within each major state. It is this latter element that constitutes the more important aspect of his work, and he is particularly successful in his treatment of the formulation of German policy.

Bennett argues that issues relating to "military objectives or rearmament and, particularly, of preparing for national mobilization, were a major consideration—possibly the largest consideration—in bringing about the replacement of Hermann Müller by Heinrich Brüning, and of Heinrich Brüning by Franz von Papen . . . and in forcing Papen's resignation (p. 301). While he is less convinced that these issues, or military

influence in general, were as important in Hindenburg's decision to allow Hitler to form a government, Bennett does demonstrate clearly that by 1933 the military was willing to accept and work with the Nazis, not so much because of any hoped for international policy, but because cooperation with the Nazis was necessary in order to implement already approved clandestine plans for expansion of military training for German youth. He maintains that from the time of his accession Hitler was sympathetic to traditional military views and sided with those who advocated the creation of a single integrated military establishment. This put Hitler in opposition to those who saw the S.A. as a continuing separate military elite, and made the ultimate 1934 purge of the S.A. leadership not so much an indication of policy change as an almost inevitable end result of a long standing position.

Bennett also concludes that Germany's posture of demanding equality through disarmament by others during the twenties and early thirties was never taken seriously by Germany itself. The Germans were not particularly interested in whether others disarmed, what they wanted was to rearm themselves to a position of strength that would give to Germany its old position of continental predominance in international affairs. Hitler's new authoritarian government made it easier to organize and implement procedures, but the policies and plans were consistent with those evolved by earlier governments during the Weimar period.

Overall, Bennett concludes that the French, more than any others, recognized what the Germans were up to. The British "tended to appease German demands whenever they became pressing, not for Germany's sake, but to avoid new expenses and to maintain hope at home of a new world without any war" (p. 509). To this should be added British distrust of the French and their desire to avoid any commitments that would appear to ally Britain with one European state against another. Finally, Bennett concludes that the United States, in its continued counselling of non-confrontational politics, did much to undermine what slight spirit of resistance might have developed, particularly in Great Britain.

This is a volume to which one is inclined to attach the word "definitive," not because it is inconceivable that new documents may appear, but because it seems extremely unlikely that they will shed any further relevant light on the topic Bennett considers. From beginning to end the book is stamped (as Bennett admits in his preface) in the image of William Langer's early studies of nineteenth century international relations. But where Langer used 900 pages to cover a decade or more, Bennett has taken 500 to cover fewer years and a limited topic. Thus the book, well written and superbly organized as it is, can become overwhelming in its detail and tedious in its reading. Yet, overall, these are minor faults. The footnotes are precise and informative; the bibliography (which is enormous) in annotated in the best Langerian tradition; and the chapter summarizes and final concluding chapter reflect judicious and careful assessment of the evidence. Bennett's volume should remain the standard reference on this subject for many years to come.

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GEORGE A. CODDING, JR. and WILLIAM SAFRAN. *Ideology and Politics: The Socialist Party of France*. Pp. xv, 280. Boulder, CO: Westview Press, 1979. $18.50.

VINCENT WRIGHT, ed. *Conflict and Consensus in France*. Pp. 150. London: Frank Cass, 1979. $19.50.

Codding and Safran have produced a well researched scholarly narrative which attempts to explain the current strengths and weaknesses of François Mitterand's *Parti Socialiste*. After a brief but adequate historical review, the authors analyze

the ideology of French democratic socialism, its ongoing effort to "reconcile the individualistic spirit of the French with Marxian collectivism" (p. 42). Codding and Safran rightly emphasize the prudence and moderation of French socialism, along with its humanism, internationalism, and preference for legislative over executive power.

Though their sympathy for French socialism is openly admitted, their work is in general admirably balanced and judicious. The one area in which they might be faulted is a somewhat excessive admiration for Guy Mollet, who controlled the party from 1946 until its demise as the *Section Française de l'Internationale Ouvrière* in 1969. The major part of the book deals with the history of the SFIO in the years of Mollet's dominance.

No one would deny that Mollet was a masterful politician, and Codding and Safran do an able job of showing how brilliantly Mollet maneuvered in the 1960s in order to hold on to his authority. It took the spectacular events of May 1968 to break Mollet's stranglehold on a party whose membership had dwindled to 30,000, and in the final section of their book Codding and Safran present a clear account of the complex maneuvering that led to the birth of the Parti Socialiste in 1969.

In the 1978 elections the PS received the largest number of votes of any party. The PS has undoubtedly experienced "embourgeoisement" (p. 231), and is thus becoming more similar to the social-democratic parties in other Western European countries. In their conclusions Codding and Safran offer some intriguing but not wholly persuasive comparisons with these parties, and even with the Democratic party in this country. The authors clearly come down on the "changeante" side of Raymond Aron's famous dichotomy between "immuable et changeante." They judge it a good possibility that the Parti Socialiste will be liberated from its "historic ideological constraints," will have a wider electoral appeal than it now enjoys, and in the end will be transformed into a "typically Western European social democratic party" (p. 260). The implication is that the PS would be able to take power in its own right with a majority of deputies in Parliament, that some sort of revived popular front would not be necessary.

Vincent Wright is a British specialist who has recently published a detailed study of *The Government and Politics of France*. The book under review here is a much less ambitious endeavor, actually a reprinting of a special issue of *West European Politics*. Wright admits in his brief introduction that the book is a "modest contribution" (p. 1). Nine papers are included, and while Wright claims that the papers present "no over-arching theory or general argument" (p. 2), this reader, at least, detected a strong emphasis on the immuable side of Raymond Aron's dichotomy. Professor Wright himself offers an ingenious analysis of the 1978 elections, successfully eliminating the divinity from that "divine surprise" for the French center and right.

Jack Hayward's thoughtful essay on the counter-political culture in France, while demonstrating a sympathetic understanding to protest movements, finds no evidence that they are going to be more effective than they have in the past. Anne Stevens shows us that the French administration is rocklike in its solidity, and Diana Green's paper on economic choices suggests that not much effective will be done. Ezra Sulieman finds little hope that the enormous power and influence of the grandes écoles will be broken, while Dorothy Pickles explains that France is stuck with an inefficient conscript army which she can't abandon for political reasons. The final essay by Howard Machin argues that very little has been accomplished in the area of local government reform. The book trails off without any conclusion, simply ending with Machin's assertion that major changes in the area of local and regional government "seem unlikely in the near future" (p. 149).

In an era of cheap paper and shoddy proofreading this book was beautifully printed and carefully edited. But still it was brought to press too hastily. Its value for the scholar and the layman alike would have been greatly enhanced if

Vincent Wright had added a concluding chapter drawing upon his vast knowledge of the contemporary French scene, and if a bibliography and an index had been provided.

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H. J. HANHAM. *Elections and Party Management: Politics in the Time of Disraeli and Gladstone*. Pp. xxxi, 468. Hampden, CT: Anchor Press, 1969. $27.50.

This formidable monograph was first published in England in 1959. This is an exact reprint of the first edition *without revisions or additions*, except for a thirteen-page "Introduction to the Second Edition." But anyone wishing to consult an up-to-date bibliography on the subject may consult Hanham's *Bibliography of British History, 1851–1914* and his chapter on the period 1870–1914 in *Changing Views on British History* to be published shortly by the Harvard University Press.

Elections and Party Management deals with the period between the Reform Acts of 1867 and 1884, a period important in British political history because it was then that Britain began to move toward democracy and to create a two-party system with modern party organizations and modern electioneering practices.

Hanham examines in detail the elections of 1868, 1874, and 1880 at the local level. Part I describes the various kinds of constituencies; Part II describes elections, electioneering, corruption, finances, and local party organization; Part III describes the building of central party headquarters in London and the methods used to finance them.

When this book was first published, reviewers noted that it was remarkable for several reasons. First, much had been published before about the constitutional and political history of Parliament, about the Cabinets and statesmen of the period, but very little had been written about the problems of the ordinary party politicians and the growth of party organization and electioneering. Hence Dean Hanham was examining an important subject for the first time. Second, every reviewer was impressed by the enormous range and depth of Hanham's research: this is an encyclopedic work and it is improbable that the subject will ever be studied with such thoroughness again. This was clearly to be the standard work on the subject and it has, in fact, remained for twenty years the indispensable casebook for students of the political system in late nineteenth-century England.

Reviews of the 1959 edition also pointed out that this was, because of the sheer bulk of the material surveyed, but also because of a curious lack of apparent organization, a very difficult book to read. Not for the general reader or even the *professional historian of another era, it* remains in 1979 a handbook for the specialist.

Finally, reviewers noted in 1959, that the book has no conclusion or conclusions. We may hope that the second volume which was promised in the Introduction to the 1959 edition will discuss some of the matters of general concern which are only hinted at here.

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ROBERT S. JORDAN and MICHAEL W. BLOOME. *Political Leadership in NATO: A Study in Multinational Diplomacy*. Pp. xi, 316. Boulder, CO: Westview Press, 1979. $20.00.

This is a book about the first four secretaries-general of NATO, the manner in which they were selected for the post, their particular styles of activity, their relations with the soldiers at SHAPE, and the limits of their influence. It is a kind of history of the organization during its first twenty years. A response to the Cold War, NATO has lingered on in the era of dénte nte. Openly warred on by the old Gaullist regime, kicked from pillar to post, grudgingly supported by some of its members at least, it has often been rather dubiously regarded by those whom

it was designed to encourage and protect. NATO is a survivor.

Of the first four secretaries-general, three were more nearly the kind of high-level functionary associated with the central direction of international organizations than was the fourth, a politician not entirely pure and by no means simple. General Lord Ismay proved to be a distinguished administrator, though it is fair to say that he remained better known for his wartime role as mediator between the government and the high command in the United Kingdom. His successor Paul-Henri Spaak, a stormier being with a controversial past in Belgian politics, ambitious, frankly ideological, believing he had a somewhat broader and more personal mandate than did the others, was the first to run into heavy weather from France. He experienced troubles with the Council, saw the Supreme Allied Commander Europe (General Norstad at that time) assume a powerful, independent authority, and suffered the decline of his hopes that NATO would exercise a strong economic and political influence parallel to its military function.

By contrast, both Dirk Stikker and Manlio Brosio, although they had some political experience, were diplomatists, managers, mediators. Concerned principally with the military goals of the Organization, they enjoyed good relations with the American (and other) generals. Beset by rows between Mediterranean members, they gracefully accepted de Gaulle's hostility to NATO, cultivated France's representatives, and quietly endured expulsion to Belgium. Somewhat curiously, the secretaries-general seem to have had to inform themselves as best they could, from the press (Brosio read *Pravda*), and from such cable traffic as various ambassadors cared to show them. It is diffiult not to feel that in some way they simply did not get the kind of support from governments to which they were entitled.

All this is recounted from the memoirs of some of the principal actors, from interviews with officials who worked with them, and from the press. The conclusion drawn here is that for all their skill, sensitivity, and hard work, the secretaries-general were less influential than events. If these high functionaries helped to resolve crises inside the Organization, the limits of their authority were marked out by the intensity of European nationalisms and by the changing climate of international relations. Ismay, Spaak, Stikker, and Brosio viewed the growing Soviet strength with alarm, but NATO's members were apparently less worried. Cold War gave way to détente. Domestic troubles loomed large. Thus NATO soldiers continue, barely known to the public, ill-matched to their potential opponent, while behind the scattered news items about Soviet enthusiasm for T-shirts, Coca-Cola, bluejeans and Olympic gold coins, the immense military power of the Soviet system continues to grow.

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DAVID MCCRACKEN. *Junius and Philip Francis*. Pp. iv, 157. Boston, MA: Twayne Publishers, 1979. $12.95.

Two things stand out about this monograph on Junius: (1) it is the first effort in many years to attempt to deal with the "Junian" question sketched across the pages of a monograph (the last such effort was that of James Smith, *Junius Unveiled*, 1909); and (2) it energetically argues the authorship of the *Letters of Junius* for the War Office clerk (later a member of the Bengal Council), Sir Philip Francis (1840–1818). On both counts, it is, at best, a tour de force; on neither count is it successful.

"Junius" was the adopted pseudonym of the writer of the *Letters* published from January 21, 1769 through January 21, 1772 in the London daily newspaper, the *Public Advertiser*. The *Letters*, opposing King George III and the policies of the ministries of the Duke of Grafton and Lord North, have survived as an English classic and owe their influence to three interrelated factors: the high Whig philosophy espoused in the *Letters* and their attacks on Tory policies; the literary power of the *Letters*, possibly

the most effective use of slanderous polemic ever employed in English political controversy; and the mystery surrounding the authorship.

McCracken's monograph has as its focus "Junius as a creation of Philip Francis and as a phenomenon of his age." In a strict sense, McCracken (Department of English, University of Washington) is primarily concerned with placing Junius in a literary context: "Yet in placing Junius in a literary context, it is not entirely sufficient to remark only on the intellectual and polemical prose tradition, of which he is clearly a part. It has already been mentioned that much of Junius is not literally true at all; the portraits of Grafton and Bedford are more creations than reports, and not because Junius was a sloppy observer or a political madman. For the reason behind such portraits we must turn to a second literary tradition: that of Augustan satire" (15–16).

Thus, McCracken addresses the question of authorship, tangentially, and uncritically accepts Francis as author of the *Letters*. Here, he relies on the work of Alvar Ellegard (*A Statistical Method for Determining Authorship: The Junius Letters, 1769–1772* and *Who Was Junius*, both published in 1962) who used stylistic tests (Valéry's *mot-clefs*) to argue Francis's authorship. McCracken acknowledges the inherent weakness of Ellegard's attribution: "Of course, it must be recognized that Ellegard has not proved absolutely that Junius was Francis; he has —to be technically accurate—simply established an extremely high probability on linguistic evidence alone that Junius was Francis" (37).

It is not strange that McCracken (who makes no pretense at being an historian) should rely on "literary" tests to support Francis's authorship of the *Letters*. Subject to no true verification, these stylistic tests initiated the case for Philip Francis a long time ago. John Taylor, who originated the case for Francis on the basis of style and language, advanced his views between 1813 and 1818. In dismissing Taylor's views, the great critic Sir Charles Wentworth Dilke, expressed sentiments still true: "[We] hope that we shall never again hear the name of Francis associated with that of Junius until some *one* fact shall have been established showing a connexion between them."

In his metier, McCracken is not without a perceptive talent, and this is clear in his illuminating discussion of "The Letters as Satire." "At his best, Junius makes his invective an integral part of a satiric 'character,' a literary portrait revealing the essential traits of a person. The tradition was a rich one in the satire preceding Junius: Samuel Butler's *Characters* in prose, and in poetry Dryden's Zimri, Pope's Atticus and Sporus, and Swift's Wharton, to mention only a few. Junius' characters bear just enough resemblance to the real person to establish a degree of validity, but their richness lies in Junius' witty fabrications" (118). He should have left Sir Philip Francis alone.

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HENRY M. PACHTER. *Modern Germany: A Social, Cultural, and Political History*. Pp. xi, 415. Boulder, CO: Westview Press, 1978. $22.50.

Henry Pachter states that his aim is to summarize present scholarship in Germany and to provide a new perspective. This he does, often very well, always interestingly, frequently provocatively, and occasionally with insufficient discussion of international affairs. To be fair, it should be noted that Pachter is focusing on Germany rather than on the general European crises of various periods. The author clearly believes that much can be learned from analysis of society and culture and that political, diplomatic, and military events do not require as detailed attention as they receive in many accounts.

Pachter brings to his study extensive knowledge and understanding of German literature and the arts. His insistance that all levels of culture—including mass and low culture as well as intellectual considerations—must be examined before any judgment is reached leads him to a more critical evaluation of the Weimar Republic and a more favorable as-

sessment of the Federal Republic than is traditional. His social-democratic, secular-intellectual bias is clearly evident but not doctrinaire. Brandt receives accolades and Adenauer is granted considerable, if grudging, praise. Pachter is clear about his dislikes; Bismarck and Ebert are criticized, while Heidegger and the German existentialists are shown scorn.

The introductory chapter is outstanding for its succinct summary of German history prior to 1870, the point at which the author begins his detailed analysis. The treatment of the two Germanys since 1945 is informed and penetrating, and the discussion of the fate of small business under the Weimar and Hitlerian regimes is illuminating. The best portions of the book are those which examine the strengths and weaknesses of the social-democratic movement and its leaders.

Pachter writes well, and his verve carries the reader. At times his desire to make a point carries his prose too far for this reader: did Bismarck really "anguish" Europe for three decades? (p. 25); is "hothouse lasciviousness" an appropriate term for discussing the works of Bruckner, Mahler, Richard Strauss, and Schönberg? (p. 41); is it not too coy to refer to Bruning as "a vest pocket Machiavelli . . . [who] was eventually caught in his own tricks and rewarded with a Harvard professorship"? (p. 193).

More serious criticism can be raised regarding the dearth of material on church and education in a volume emphasizing social and cultural history. Surely too the account would benefit from better and larger maps. Yet, in all, Pachter has provided a broad view which offers an alternative perspective to the political-military approach to German history. He is up-to-date in his discussion of current German affairs and throughout the volume he has skillfully blended erudition with lively writing. The work is the result of reflective thought over many years; it is stimulating and worthwhile reading.

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UNITED STATES

R. DOUGLAS ARNOLD. *Congress and the Bureaucracy*. Pp. xiii, 235. New Haven: Yale University Press, 1979. $17.50.

In the growing body of scholarly publications dealing with the complexities of congressional behavior, this excellent book should hold a distinguished position. Arnold seeks to examine the interactions between members of the House of Representatives and members of the upper bureaucracy in respect to the geographical allocation of federal expenditures. He selected this aspect of congressional-bureaucratic relations because decisions as to where federal funds will be spent are made regularly, almost all members of Congress are interested, and expenditures are easily quantifiable. His basic hypothesis is that high-level bureaucrats who make allocation decisions have three occupational goals: budgetary security, the primary goal because it involves present power and prestige, budgetary growth, and public service. Of course, these goals depend on the decisions of Congress. Arnold also argues that the congressman's fundamental goal of reelection is affected by two aspects of the geographic allocation of federal expenditures: constituency service and the acceptability of voting records.

Arnold tests his general theory as to how congressmen and bureaucrats interact with each other by examining in considerable detail three federal programs that involve the geographic allocation of expenditures: military employment, the water and sewer grants administered by HUD between 1965 and 1974, and the model cities grants of 1967 and 1968. He develops substantial statistical evidence to show that in deciding upon the allocation of federal funds, the bureaucrats favor those members of Congress most closely involved in the policymaking process, mainly the members of the subject-matter committee which must vote the authorizations, and the relevant subcommittee of the House Appropriations Committee, which dominates the actual appropriation process.

For example, after studying the histories of all major Defense Department installations for the 22-year period from 1952 to 1974, Arnold concludes that members of the House Armed Services Committee and of the Defense and Military Construction Subcommittees of the House Appropriations Committee were better able to prevent closure of installations in their districts than all other congressmen. His conclusion: "The typical installation with no committee representation had about 4 percent chance of being closed during any two-year period, while those on Armed Services had a 1.7 percent chance, and those on the military subcommittees of Appropriations had a 0.5 percent chance." Similarly, with respect to the allocation of water and sewer grants by HUD bureaucrats, Arnold's evidence strongly supports the inference that the bureaucrats selected applications favorable to members of the House Banking and Currency Committee and the Subcommittee on Agriculture of the House Appropriations Committee.

He concludes that "whereas applications from areas without committee representation were accepted less than 18 percent of the time, those represented on either the Banking and Currency Committee or the Appropriations subcommittees enjoyed acceptance rates of 28 to 31 percent. . . ." He arrived at similar findings with regard to the model cities grants.

Two additional comments are worth making. First, Arnold does not push his findings beyond the area of expenditure allocations, and does not pretend to explain other legislative-bureaucratic dealings. Second, the methodology employed (much too complex to be explained in a short review) is ingenious and persuasive, especially in suggesting a way of measuring governmental factors which are very difficult to measure at all. All in all, this is a valuable book.

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ARLENE A. ELDER. *The "Hindered Hand": Cultural Implications of Early African-American Fiction.* Pp. xiv, 225. Westport, CT: Greenwood Press, 1979. $18.95.

A British anthropologist whose interest in literary criticism is strictly amateur, confronted with a study of early African-American fiction, looks for parallels in anglophone Africa. What strikes one most are contrasts. In the greater part of anglophone Africa, fiction writing is post-colonial and deals with the upheavals of recent social change, the conflict of particularist with universalist values, or even the subjection of women. Some of it is closer to what Arlene Elder calls "their own tradition of oratory, narrative and folklore" than that of the American writers whom she criticizes for adopting the genre of "the nineteenth century sentimental novel." Such criticism invites the question, "What should they have done?" Would not writing in their own tradition have invited the patronizing attitudes that they wished to repudiate?

Of the three writers whom Elder treats in detail, Sutton Elbert Griggs, Paul Laurence Dunbar, and Charles Waddell Chesnutt, the last was the most famous, the most widely acclaimed and, on the evidence of her book, is the most interesting. Possibly his fair coloring helped to make him acceptable. As the child of mulatto parents he sometimes contemplated, as a young man, moving to the North and trying to pass. Elder condemns him for wishing to succeed in the society that he criticized; don't we all? Again, what should he have done? It is an insidious form of racialism that says *we* can pursue our individual careers while *they* ought to throw in their lot with their opressed brethren.

However, Chesnutt did follow the African tradition of narrative and folklore in his first book, *The Conjure Woman.* This stands Uncle Remus on his head. Its Uncle Julius may be a loveable darkie but the thrust of the stories he tells is to bring home to his white employer, a Northerner no less hard-headed and callous than his slave owning predecessors, the cruelties of slavery. The stories are told to the employer and his wife, and the device consists in showing the impression they

make on *her*. If there is rather a plethora of synopses in Elder's account, they do show his range as he moved from the condition of the slaves to the new expressions of racialism that followed the rise of the poor whites to replace the bankrupt plantation owners. His novels should doubtless be read as a commentary on American history.

Elder's conclusion is that he and his predecessors were mistaken in believing that America was really committed to equality. Of course it was not; what nation is? And again one asks, "What then?" Should they have supported Black Power before the idea existed?

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LOUIS FILLER. *Vanguards and Followers: Youth in the American Tradition*. Pp. viii, 252. Chicago: Nelson-Hall, 1979. $11.95.

In *Vanguards and Followers*, Louis Filler poses the thesis that the youth movement, considered by many a phenomenon unique to the decade of the 1960s, was rooted deeply in the context of traditional American values. In Filler's analysis the youth movement is characterized by individualism, self-interest, and disaffiliation from society and it's traditions. The affluent, educated, middle class youth who comprised the movement, unable to influence government or military establishments, disengaged from a society from which they felt excluded. Measures of social control exercised by parents, schools, churches, and governments were ineffective because the values on which they were based, patriotism and the work ethic, were rejected by young people.

Filler deals with the youth movement exclusively in terms of the cultural values they embraced and which gave meaning to their activities. He locates historical antecedents for their behavior in early American traditional beliefs. Emigrants fleeing from European societal control resisted punishing deviant behavior. Banishment, traditionally a severe form of punishment, was a small penalty where the frontier was easily accessible and provided ample opportunity for self expression to those who were uncomfortable in the established society of the day. Later in the nineteenth century, outlaws, Bohemians, and libertarians, while not themselves young, were role models of nonsocial behavior and social criticism which provided a historical context for the development of a youth movement. Youth as a separate social entity did not develop until the first decade of the twentieth century.

Artists have through time been the source of social criticism, a force for individual expression. Filler uses artistic expression as evidence for his argument beginning with Emerson, Thoreau, and Crane, following later with Fitzgerald and Hemingway. The role of artists and musicians, particularly in the 1950s, in expressing values meaningful to youth is analyzed.

The book is most valuable in providing a perspective on one of the leading phenomenon of our time. But it's strength is a reflection of the weaknesses. A single viewpoint of necessity distorts the role of other factors. In this case the economy and social structure are considered tangentially or not at all.

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GEORGE NORRIS GREEN. *The Establishment in Texas Politics: The Primitive Years, 1938–1957*. Pp. xiii, 306. Westport, CT: Greenwood Press, 1979. $22.50.

Looking at Texas politics, George Norris Green presumably accepts Ambrose Bierce's remark: "Politics is the conduct of public affairs for private advantage."

This impressively documented volume provides a provocative account of the nexus between Texas politicians and economic royalists. Professor Green hands down a trenchant indictment of ultraconservatism in government, corporate domination of the state capitol, regressive anti-union policies, suppression of academic freedom, hostility to minority rights, and demagoguery and

corruption among those who wielded power.

Texas' contribution to national politics has been formidable. Here the reader learns how Texas oil served as fuel for countless statewide races. Businessmen treated towns and cities as private clubs. There are national lessons to be derived from Green's observation that "big money distorts Texas campaigns and limits political access to the rich or to those whose beliefs cater to the rich."

From local precincts to the statehouse to the White House, he traces the machinations of wheelers and dealers in corporate boardrooms and political convention halls. Attention is focused upon public officials whom the Establishment coopted: "Pappy" O'Daniel, the evangelist-flour pitchman, who promised to rid Texas of Satan and subversives but opened his doors to a motley assortment of promoters; Martin Dies, Chairman of the House Un-American Activities Committee, whose character assasinations were precursors to McCarthyism; Coke Stevenson, the rancher-banker-lawyer, who launched an assault on the University of Texas; petroleum attorney Beauford Jester who, as Governor, signed into law the most restrictive anti-labor measures, and Allan Shivers who led Texas Democrats to an endorsement of a Republican, Eisenhower, over the tidelands oil issue.

Dr. Green diversifies his sources: Congressional documents, presidential papers, state archives, university collections, union files and oral histories. Unfortunately, in searching for business connections, he relies upon newspapers rather than records of regulatory agencies such as SEC which could have illuminated corporate activities in Texas.

There are shortcomings. Garner's removal from Roosevelt's ticket is barely treated. The Lobby Control Act of 1957 is glossed over in the discussion of symbolic "turning points." Given the nature of the public hearing process, the author's comment that lobbyists outnumbered legislators at tax hearings seems naive.

Moderates such as Johnson and Rayburn receive mixed reviews. Green's treatment of liberals—Allred, Yarborough and Maverick—is gentler than his handling of conservatives. His outrage over plutocracy is genuine, but his presentation could have been more objective.

Although Green recognizes the pitfalls of "the historian treading into the swamp of contemporary politics," hopefully a sequel about LBJ's successors will follow. There is a new generation of Texas oilmen, cattle barons, land developers, and urban influentials to be pursued. Professor Green is ably equipped to continue the hunt.

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HAROLD D. LASSWELL. *The Signature of Power: Buildings, Communication, and Policy*. Pp. xiv, 234. New Brunswick, NJ: Transaction Books, 1979. $29.95.

Harold Lasswell's peerless strengths as interpreter and synthesizer of the politico-legal applications and implication of human knowledge are abundantly and provocatively present in this volume published just before his death.

A political book about buildings? Since earlier studies of psychopathology and politics probed the human mind in relation to its housing in the person, why not political analysis of buildings that house the persons and attest to the values of individuals and communities. Beginning with a working definition of architecture as "the handling of the material environment to achieve a degree of enclosure in fact, while at the same time forming a symbol of enclosure that may or may not be linked with symbols of political power," Lasswell devotes almost two-thirds of the book's 234 pages to exhibits consisting of pictures, tables and vignettes classified according to "Silhouette Analysis"; "Decision Functions"; "Symbolizing Identity"; "Modes and Sequences of Differentiation and Demarcation"; "Centralization and Decentralization"; "Equality/Inequality"; and "Arenas". Unfamiliar to the social scientist's typical frame of reference as this may seem at first glance, the reader is quickly and compellingly drawn by Lasswell's vision to an appreciation of

how 120 pages of photographs of buildings can stimulate and hone perceptions of political values.

For example, Lasswell's first section of photographs is selected for "silhouette analysis" in order to explore the relative prominence of structures as they bear especially on political power. Since a community is often dominated by a single institution that shapes and shares a particular value, he presents eight prototypes of cities which are dominated by an institution "specialized to" different particular values. He cites the Parliament Building in Ottawa, "commanding the heights like a military fortress of another age" as embodiment of the value of power. Yale University, the largest land owner in New Haven, is held to typify enlightenment. The Toronto skyline exhalts wealth. The photo of the urbanely lavish racetrack at Saratoga Springs, New York, symbolizes commitment to well-being. Phillips Exeter Academy's buildings overlooking Exeter, New Hampshire are perceived as a dedication to skill. The modern highrise apartments that constitute one of the largest public housing projects in the world at Sheffield, England, embody affection as they "rim the side of the valley where the central city nestles." The graveyard of Concord, Massachesetts, typifies respect. The cathedral of York, England that "looms over the town" and whose "style is the pride of all England" symbolizes rectitude. Lasswell deprecates "facelessness," the trend in public structures in recent times that eschews novel and expressive images of civic and public order. He prefers public edifices that can fulfill the need for "integrating experiences" and serve through their character as "unifying symbols of identity."

The richness of Lasswell's imagery and commentary on the nuances of interplay between power and other values in the multitude of human structures can be relished and pondered without yielding to every Lasswellian premise. Some might find the intrusion into the Yale University photograph of "Muriel's House of Fashion" as less a landscape of enlightenment than of dissonance. The allowance, if not the incentive, for dissent from Lasswell's labels is one of the charms of the volume rather than a defect, however.

Lasswell has never been a passive observer. His quest for community in relating human beings to themselves, to their fellows, to their world and other worlds yet undiscovered is manifested here particularly in a section of the phenomena of spacing where he deals with slums. He discusses and then rejects the premise that established elites who do nothing to transform the conditions of the lower strata act in accord with "evaluation of their net advantage." To Lasswell the potential benefits of modern science and technology provide grounds for concluding that "slum politics is no longer practical politics." The architecture of opulence has no place in his universe for it contributes to political destabilization through its illusory conceptions of the potency of system and of self. "Passive acceptance of poverty is an obsolescent attitude."

In essence, the *Signature of Power* can be seen as Lasswell's acknowledgment of love for humankind's boundless capacity to ameliorate the condition.

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GEORGE MACE. *Locke, Hobbes, and the Federalist Papers: An Essay on the Genesis of the American Political Heritage*. Pp. xiii, 162. Carbondale, IL: Southern Illinois University Press, 1979, $12.50.

Readers of Mace's book may find, by the time they are through with it, that they have been cheated. Mace devotes about 60 percent of the book to an analysis of Hobbes, 30 percent to the Declaration and Federalist combined, and 15 percent to Locke with few interconnections among the three. Mace's concern with the subject arose through reflection upon certain themes within the American tradition, the most prominent being the conflict between "inalienable rights" and "the nature of man," and with the mechanisms which exist in the theories

of Locke, Hobbes, and the Federalist for the resolution of this conflict.

Mace attempts to demonstrate that Locke is not the champion of democracy that he has been considered to be; that Hobbes is more libertarian than he has hitherto been portrayed; that the American political heritage is more Hobbessian than Lockean; and that, as a theorist, "Publius" is superior to both Locke and Hobbes. Mace informs us that he has arrived at these conclusions through a "close textual analysis" a la Leo Strauss.

Mace's arguments regarding Locke and the Federalist are neither new nor particularly stimulating. His analysis of Hobbes, on the other hand, is provocative and plausible. There are, however, serious flaws in Mace's perspective on political reality and political philosophy, and the relationship between the two. For example, why does this book, claiming to be about the genesis of the American political heritage, take no account of American political and social reality; and why does Mace look solely to Europe for an explanation of American political phenomena and the American political heritage? His method is based upon the false assumption that his subjects lived and wrote in a social and political vacuum, that there is nothing more to the reality that political philosophy seeks to comprehend than the great books abstracted out of the Western political tradition, itself an abstraction.

Mace implicitly argues that nothing occurred in America from the time of Hobbes and Locke to the time of Jefferson and Publius. At the end of the book, Mace announces that Publius's theory is "theory *par excellence*," which is why "so little theory has evolved in the United States" since then. For Mace, Publius has resolved all the "*grand* issues" of the American political system, leaving subsequent generations the simple task of fine tuning the set.

J. G. A. Pocock, in his analysis of republican political theory in Florence, England, and America, remarked that the great consolation of the myth of Omniscient Founding Fathers was that it allowed the believer to suspend thought (since all questions have been answered), and with Mace's book we can add, to replace clear, critical thinking about political reality with "close textual analysis" in a vacuum.

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RICHARD VALERIANI. *Travels With Henry* Pp. 400. Boston, MA: Houghton Mifflin Company, 1979. $12.95.

Political study surely can be at least a quasi science in that parameters, variables, correlations and paradigms often may be determined by rigorous analysis. Comprehension if not necessarily prediction is therefore at least occasionally a distinct possibility. But this vigor alone cannot succeed in capturing the dynamics of many interpersonal relationships affecting decisionmaking, especially when those relationships are stimulated by a seemingly near indefatigable iconoclastic human catalyst. Valeriani's work is a fascinating and thoroughly enjoyable treatment of the personality of Henry Kissinger as catalyst and often court jester in a number of the the most dramatic initiatives and negotiations in the history of American foreign policy.

Valeriani's compendium of Kissinger's "Vit and Visdom" and variations in bargaining styles with leaders of different nations is indeed a personality study of a complex diplomat—administrator—politician. While noting Kissinger's "wants and all" in detail, including frequent temper tantrums, colossal egoism, personal deep hurt felt by criticism, and personal need and even demand for pomp and ceremony, Valeriani obviously is in awe of the academician, conservative, pragmatic, nonideological, Eastern establishment idea leader with whom he and the other "Boys on the Plane" clocked record travel time.

The peripatetic Kissinger displayed uncanny ability to manipulate many world leaders and his American media associates by humor, by an ability to grasp infinite details of specific issues, and to summarize, conceptualize, and

elucidate options to all sides of major international policy disputes.

The record was extremely impressive. The twentieth century opening of China to the West was a phenomenal development, the Egyptian-Israeli and Syrian-Israeli negotiations were diplomatic breakthroughs providing a previously impossible bridge, and the attempts at U.S.-U.S.S.R. detente were significant. (Valeriani does not cover the Indochinese negotiations.) Valeriani treats Kissinger's personal relationships with the leaders of each of those nations and the personalization, even humanizing, of discussions with those leaders which epitomized the Kissinger style.

Valeriani also describes from the American media perspective how China and the Arab World gained when their almost naively perceived negative image of the West—particularly in the United States—was changed as a by-product of Kissinger's travelling diplomacy. NBC's television correspondent provides a useful description of how domestic political realities, and the historic fears of each nation given the Kissinger treatment, inevitably prolonged the step-by-step-by-step shuttle diplomacy format.

Many important difficulties of that format are only summarized: the impact upon worldwide international affairs and daily administration when "Super K" was concentrating on detailed policy debates in a single region; the incredible policy-making discretion delegated by two American presidents to an appointed official; and the influence upon conflict resolution of a media entourage constantly concerned with "news" for deadlines. But in the perspective of this highly recommended work, Valeriani confirms definitively that Kissinger was not a secret swinger, although this reputation was of utility in serious but humorous verbal sparring with various world leaders.

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WILLIAM APPLEMAN WILLIAMS. *Americans In A Changing World: A History of the United States in the Twentieth Century*. Pp. xvii, 523. New York: Harper & Row, 1978. $14.95.

The historical community owes much to William A. Williams. The latest example of his contributions is this college text in which he lays out for undergraduates a composite of his New Left and other assertions which have influenced the profession for over two decades. From the book's beginning Williams is typically provocative, introducing students to the ideas that for too long his colleagues have been playing elitists' research roles in doing the bidding of American Corporations in their attempts at explaining the American foreign policy of containment. Williams delineates the evolving economic imperialism of the American class struggle from the turn of the century to the present.

While the author's emphasis on the class struggle is not particularly innovative, his description of it will at times be startling to students and to many of their teachers. For example, he portrays William McKinley as a leader who, in the class struggle of the 1890s, dealt fairly with laborers, farmers, and blacks, and earned the support of the young firebrand, Robert LaFollette. McKinley's man, Hanna, is presented as saving the day in the threatened coal strike of 1897. And, although McKinley's economic imperialism dominated American foreign policy, the President supported reciprocal trade arrangements with foreign nations. While Presidential candidate Bryan, in 1900, harped on Republican colonialism, Williams contends that he was not opposed to market expansionism, imperialism by another name. To understand America's corporate power at the turn of the century, Williams says we need to measure it against the option of a decentralized socialist system. Unfortunately Williams does not define such a system.

The author assessed the Progressives who, in this century's first two decades, tried to regulate and rationalize the system but did so in a very nonreforming way: they were far too dependent upon the very individuals and institutions

they were trying to control. So, Theodore Roosevelt's quasi-reform spirit was constrained. Williams sees Taft as a leader who sensed what Hoover later learned: that piece meal reform on a continental scale demanded a commitment which ordinary people would not make. The author views President Wilson as no reformer at all—he who consolidated the power of corporations by maneuvering the nation to war. "Wilson was sucking power into Washington as if he were a corporation executive on a binge of vertical integration" (142–3).

Hoover emerges as William's hero, trying in the 1920s to decentralize corporations and achieve an active citizenry and, in the process, "correct monopolies and redistribute national welfare" (187). Hoover's corporatism failed in the Great Depression. The author begrudgingly admits that Franklin Roosevelt as President restored the people's faith but after the first 100 days lacked leadership in both domestic and foreign affairs. He became, according to Williams, an American imperialist even before Germany and Japan posed a threat to the nation.

The text moves to its conclusion by contending that under Harry Truman the American empire rampaged. Only H. L. Stimson, Robert Taft, Henry A. Wallace and Herbert Hoover seemed nonimperialist to Williams, although Eisenhower as President was less intensive about it than most top level leaders. Ike, in fact, at last began to echo Hoover's much earlier warning of the emerging of America's system of corporate state capitalism. It seems logical to the author that Vietnam and Watergate evolved from the economic imperialism that infested America's policies at home and abroad from the turn of the century. As Williams sums up: "The traditional abuses of the imperial frontier had surfaced at the center of the empire" (463).

One may argue the simplicity of William's historical notions. However, two caveats should be noted. First, he has mightily impressed many historians closest to his corporatist thesis which revolves around Hoover and his Presidency—historians such as Ellis Hawley, Joan Hoff Willson, David Burner, and this reviewer. Second, after a half-century of nearly unquestioned dominance, liberal historians owe their students and the profession a reasoned and not simplistic response to the various New Left criticisms of America. Such a response can be made. If it is the profession will be stronger for it.

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SOCIOLOGY

AUGUST BEQUAI. *Organized Crime: The Fifth Estate.* Pp. xv, 250, Lexington, MA: Lexington Books, 1979. $15.95.

Despite recent skepticism by some criminologists concerning the omnipotence and pervasiveness of an organized criminal syndicate, August Bequai, a lawyer, asserts unequivocably that a "criminal cartel" does exist as a "*de facto* government," a "Fifth Estate," which stretches domestically and internationally and threatens to undermine the very legitimacy of our democratic society. Yet, rather than a totalitarian conspiracy, he views this cartel as a feudal system, a loose confederation of various ethnic and regional crime groups that have maintained an uneasy entente based on economic and political necessity.

In tracing the history of organized crime, Bequai challenges both interpretations of organized crime as strictly an American phenomenon and as solely of Sicilian origin. Instead, he describes it as arising in a number of international settings where government has been perceived as alien and hostile, either because of foreign rule or fragmented and corrupt government. In such settings particularistic loyalties to family and clan have dominated those to the state and, subsequently, were galvanized into political secret societies with special institutions (vendetta, honor, machismo) which attempted to protect indigenous culture and traditions. Gradually, these societies experienced political deradicalization, acting first as powerbrokers for

local satraps, then as political manipulators in pursuit of criminal interests.

These same elements—diverse ethnic group participation, particularistic loyalties, and a fragmented and corrupt political environment—form the framework for Bequai's analysis of organized crime in America. Organized crime is seen basically as a political problem rather than a problem with the organization of society. In fact, Bequai might have improved his work had he considered Robert Merton's social structural analysis in which organized crime is depicted as an "innovative," albeit illegitimate, adaptation to blocked access to shared cultural goals. At one point Bequai's failure to evaluate a means-end nexus leads him to the dubious statement that criminal and terrorist groups might eventually work together, even though he recognizes that organized criminals are not revolutionaries.

Bequai does not see organized crime as merely an alternative to legitimate business. The Mafia, which he characterizes as constituting the core of organized crime, shifts profits between legitimate and illegitimate enterprises and, along with other criminal groups, attempts to destroy economic competition and undermine and seize legitimate businesses. As the Mafia has presumably moved into white collar crime, it has left more traditional and riskier endeavors to newer and less sophisticated groups. Although recognizing a similar environment and history between organized crime and corporate corruption, Bequai's failure to emphasize differences in structure between the two leads him to make the mistake of attributing many forms of sophisticated white collar crime to syndicate involvement without providing substantial evidence.

Finally, in discussing the control of organized crime, he provides some useful insights and recommendations. He sees no need for new laws, more funds and staff, and tighter security measures. Not only are the number of laws dealing with organized crime adequate, but some, those which legislate morality and provide crime tariffs, could be abolished. Instead, he suggests streamlining the governmental control apparatus which is fragmented by conflicts between agencies and between levels of government, and which nullifies the usefulness of existing laws.

By not considering the recent controversies concerning the topic of organized crime, Bequai tends to repeat much of the conventional wisdom about the topic rather than breaking new ground. Some of his more astute observations are blunted by a lack of evidential support, a muckraking tone, and a mere two page conclusion.

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EDWIN DIAMOND. *Good News, Bad News*. Pp. xiv, 263. Cambridge, MA: The MIT Press, 1978. $12.50.

STEVEN J. SIMMONS. *The Fairness Doctrine and The Media*. Pp. xviii, 285. Berkeley: University of California Press, 1978. $14.95.

During the past two decades, there has been no shortage of negative commentary about "media," especially television. To the perennial "wasteland" complaints about the shallowness of TV programming have been added other charges. Attempts have been made to boycott sponsors because of presumed unfairness to gun owners. Some groups have voiced displeasure over the alleged harmful effects upon youngsters of televised violence and sugar-coated cereal advertising directed to the same audience. Environmentalists have objected to oil company commercials, and at least one critic has seen in media a "left-wing Jewish" conspiracy to subvert American values.

One consequence of this heightened awareness has been an increase in citizen actions through the Federal Communications Commission (FCC), legislative bodies, and the courts, to change programming or to gain access to media. Central to such efforts is the "fairness doctrine." Steven J. Simmons' excellent and thoroughly researched book, *The Fairness Doctrine and The*

Media, addresses the legal and policy issues raised by concerns about TV and radio.

The fairness doctrine as currently utilized by the FCC requires, first that radio and TV stations assign some amount of their broadcast time to matters of public importance and, secondly, that when such issues are aired, contrasting views can be offered. In the public mind, this is frequently confused with the narrower "equal time" requirement which mandates that when stations allow candidates for public office to use air time, opposing candidates for the same office be given equivalent time.

At first glance, these regulations appear relatively clear; however, on application complexities abound. The FCC has, for example, dealt with many cases of personal attack—perhaps fairly in most individual instances; however, the overall thrust of such decisions is ambiguous and inconsistent. For example, referring to members of a teachers' organization as "unscrupulous criminals" is not, legally, an attack; but calling a congressman a "coward" for not appearing on a talk show is an attack. Indeed, it is difficult at times to determine what constitutes an "issue" of public importance.

One of Edwin Diamond's observations in *Good News, Bad News* is that many reporters are ignorant of the law pertaining to media. *The Fairness Doctrine and The Media* would be an excellent remedy. Documentation (there are literally hundreds of citations) is massive and, while understandably somewhat legalistic in style, the explanations are clear and the argument that what the FCC actually tries to enforce is an "unfairness" doctrine is cogent and provocative. Simmons advances several proposals for change in existing law, measures which he sees as short-term until a "truly diverse electronic communications system" is developed, one which will provide programming satisfactory to at least all significant interests. Diamond is also critical of government regulations and asserts that the technology needed is already existent.

One manifestation of public concern about TV has been the organization, by various citizen groups, of "Media watches." They have their membership watch programs and commercials for treatment of their interests or concerns and then compile lists of specific instances of perceived unfairness. A scholarly effort at press watching has been conducted by the News Study Group in the Department of Political Science at the Massachusetts Institute of Technology where, since 1972 under the direction of Edwin Diamond (formerly a senior editor at *Newsweek*), students have recorded some 600 hours of television reportage of campaigns, news conferences, elections, and congressional hearings. *Good News, Bad News* is one product of that endeavor. It focuses principally upon the 1976 presidential campaign; however, the range is wide with excellent analysis of changes in television and print journalism.

Of particular interest to current readers is the discussion of the impact of the media on popular opinion. It is, of course, widely assumed that television, in particular, is an enormously potent instrument in shaping attitudes and values. Diamond argues persuasively that such is not the case. For the most part the power of TV seems vastly overrated. Both of these works are readable and worthwhile treatments of much debated issues.

DON LEFAVE

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California

HERBERT J. GANS. *Deciding What's News*. Pp. 393. New York: Pantheon, 1979. $12.95.

DAVID HALBERSTAM. *The Powers That Be*. Pp. 771. New York: Alfred A. Knopf, 1979. $15.00.

Herbert J. Gans and David Halberstam both tell the story that President Lyndon Johnson knew he had lost the nation's support when Walter Cronkite attacked American participation in the Vietnam War. It was the first time in history, Halberstam writes, that an anchorman declared a war over.

The authors' methods of telling this story illustrate the basic differences of style and methodology in their books. Gans writes a clean, simple sentence. Halberstam embellishes the tale, citing Cronkite's soul searching and a late conversation with a young correspondent who had been covering the war.

Though their approaches are different, both authors present a simple thesis—the American media occupies a significantly powerful place in American society, second only to national political leaders, and a close second at that.

Gans speculates on the reasons for this power. He notes that national journalists are very much like the people they cover, well educated and affluent. The media creates the social and politcal boundaries for the country and determines which groups shall be allowed to engage in the national dialogue about vital issues. Journalists then provide the instant feedback that politicians need to prepare public policy. It is a very small group, the "knowns," as Gans calls them, who get the most media attention.

Gans believes that there should be a national endowment for the media which could provide funds to help the less powerful elements of society participate in the national dialogue.

Halberstam also deals in power—but in a far less analytical way than Gans. He concentrates on the relationships between people with money and influence. Halberstam writes that one of the reasons why Richard Nixon was unable to absorb criticism was that the Los Angeles Times had fostered Nixon's early rise and fully protected him from attack. He had never, therefore, been exposed to athe normal give and take that confronts most young politicians.

The media giants often pushed their own pet interests or politicians, Halberstam writes, often to the point of subverting any news harmful to their viewpoints. He shows that the Los Angeles *Times* controlled the Republican Party in California; that Henry Luce, the owner of *Time*, was in a sense in 1940 virtually the Nationalist China Ambassador to the United States; that Washington *Post* publisher Phil Graham was deeply engaged in intraparty Democratic politics; and that William Paley of CBS was definitely susceptible to political pressure. These ideas are not new, but Halberstam presents them with a wealth of detail not previously reported, except perhaps in his account of Henry Luce and *Time* magazine.

Modern journalists are more professional than many of their predecessors, more willing to present the news objectively. But as both authors demonstrate, there is still a pervasive intermingling of media and political power that can easily be used against the general public welfare.

Both books have their flaws. Gans' statistical, dry approach will attract few readers but those professionally interested in the subject. Also, his idea of a national endowment for the media, laudable though its goals are, seems largely unworkable. Halberstam overwrites—he repeats themes and language. Despite these flaws, these books are excellent companion volumes for any student interested in the operations of our national media.

FRED ROTONDARO

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ERVING GOFFMAN. *Gender Advertisements*. Pp. ix, 84. Cambridge, MA: Harvard University Press, 1979. $12.50.

Myths, stereotypes and cliches about woman's inferiority are evident—even to the non critical—in our economic life, in our laws, and in society generally. Woman still has many cultural time lags to take up.

Now Erving Goffman, sociology professor at the University of Pennsylvania, in an eight and a half by eleven volume of text with manifold advertisement, photographs in print and broadcast media, demonstrates the domination and continuing reenforcement of this inferiority concept.

Professor Goffman divides this put down of women into seven categories, each illustrated with graphic examples.

Relative size: women are depicted as smaller then men, except when men are their social inferiors.

The feminine touch: women's hands are depicted as just barely holding or caressing—never grasping or manipulating as are men's hands.

When the pictures refer to instruction, the man is instructing the woman; true also in photographs of children.

When the advertisement calls for someone sitting down or lying in bed or on the floor, it is most often a woman or child, not a man.

When the head or eye of a man is averted, it is only to a political, social, or intellectual superior; when it is a woman, she is pictured with eye or head averted to the man.

Women are repeatedly shown drifting from the scene while in close physical contact with a male, their faces lost and dreamy, as though his personality were enough to cope for both.

Women are pictured often at a kind of pyschological loss or remove from a social situation, unoriented for action.

Professor Goffman does not bring out what appears to be a fundamental reason for his portrayal; that is, advertising is dominated by men who, despite the fact that women do most of the buying, angle their advertisements to appeal to men. Nor does he mention the powerful pornographic appeal of many advertisements that use a male approach when they are aimed at women. Women are supposed to buy because men find pornography appealing.

The book presents one phase of our cultural time lags and should focus public attention on it. It may even induce the more enlightened Madison Avenue entrepreneurs to recognize that women are people.

Incidentally the impact of the book would have been greatly strengthened if it had been written in simple English rather than in the obfuscating sociological lingo.

EDWARD L. BERNAYS

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DANIEL OFFER, RICHARD C. MAROHN and ERIC OSTROV. *The Psychological World of the Juvenile Delinquent*. Pp. 224. New York: Basic Books, 1979. $15.00.

During the past fifty years the psychological perspective has significantly influenced the definition of certain social problems and the formulation of consequent social policy. Quite recently, however, this perspective has been criticized by professional groups whose interests and ideology are decidely different from the psychologists. This sociolegal critique has claimed that the psychologists' influence in the social arena is primarily a consequence of the false assumptions that their knowledge-base, and/or assertions, have been validated scientifically.

In the midst of this debate, Daniel Offer, Richard Marohn, and Eric Ostrov have produced a monograph entitled: *The Psychological World of the Juvenile Delinquent.* To their credit, the authors do not claim to have discovered either the answer to the complex set of problems which plague delinquents or a single methodology which is best able to describe the social reality of troubled youth. Instead, they set a mid-course which is intended to build upon the methodological and substantive insights which have been developed by their predecessors. In addition, the authors expect this work to stimulate other scholars to refine the methodological and conceptual foundation which they are purportedly constructing.

Although the authors's aspirations are relatively modest, this work is unlikely to advance their interests. As an academic work *The Psychological World of the Juvenile Delinquent* suffers from a number of methodological and analytic weaknesses which affect both the clarity and generalizability of its message. The authors have attempted, in this rather brief volume (175 pages), to: review much of the social scientific literature which is concerned with delinquent behavior; examine a sample of 55 delinquents' responses to a variety of traditional and new psychological tests; and develop a typology of delinquent behavior.

These analytic threads, however, are simply not integrated by the authors into a coherent whole. For instance, the four delinquent subtypes identified in the study are not formally developed on the

basis of findings which were drawn from the entire sample. Instead, the data base which is presented for each of these subtypes relies on the case histories of four youngsters, each of whom is described as best representing an ideal type. In addition, the testing which the authors conducted with the sample of fifty-five youngsters is only marginally related to their later discussion on: the affect of television upon youth, and the relationship between brain dysfunction and delinquency.

Just as important, each of the aforementioned elements of the analysis are not internally sound. The data section of the analysis is underpinned by a sample which is fundamentally flawed. The authors claim that the sample is theoretically important, but offer no evidence to support their assertion. To this reader it appears that the sample of fifty-five youngsters is far too small and localized to be representative of delinquents in general and too diffuse in its composition to accurately reflect the characteristics of a subgroup of delinquents. Concomitantly, the authors include various categories of troubled youth in their sample—youth who have attempted murder, drug abusers, incorrigible truants, and youngsters running away from home—which many scholars have suggested share few, if any, similarities except the common experience of being processed by a court.

Finally, the authors' data, chapters, literature reviews, and discussion offer few, if any, new insights concerning the behavior of delinquent youth. On those occasions where their inquiry addresses a fresh and potentially useful issue, such as the relationship between creativity and delinquency, the matter is cursorily examined and dropped. The remainder of their discussion either reworks theoretically familiar terrain or offers distinctive interpretations of data which at best is of limited utility in explaining delinquent behavior.

A few of the characteristics of this book which make it inappropriate for an academic audience might provide a more popular audience with an accessible introduction to the psychological perspective on the problem of delinquency. The brief literature reviews are clearly written, sufficiently comprehensive and of ample length for a general readership. Finally, the breadth of the discussion in the concluding section might help to sensitize this audience to the complexity and importance of a problem that is not likely to be solved by professionals in the foreseeable future.

MICHAEL FABRICANT
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New York

WINIFRED RAUSHENBUSH. *Robert E. Park: Biography of a Sociologist*. Pp. xii, 206. Durham, NC: Duke University Press, 1979. $12.75.

Robert E. Park died in 1944, seven days before his 80th birthday. Among the works this pioneering journalist, sociologist, and traveler left incomplete, indeed barely begun, was an autobiography—a "natural history" of his mind to complement the natural histories that formed the basis of so much of his research.

It is to the credit of one of his students, Winifred Raushenbush, that the task has now been accomplished, and in much the style that Park would likely have chosen for it himself. *Robert E. Park: Biography of a Sociologist* is a formal and at times off-putting piece of work, but in that respect it matches Park himself.

The volume is neither an in-depth biography, which seeks fully to interpret the man and his life, nor is it analysis of the meaning of his work in the development of sociological theory. Rather, it provides images of his work, in its many phases, as Park and his colleagues themselves saw it. And what a range of endeavors and accomplishments!

A restless native of Red Wing, Minnesota, Park left home early and did his undergraduate work at the University of Michigan, studying with John Dewey and majoring in Philosophy. He then worked as a newspaperman for eleven years, staffing six different newspapers in four cities. Following this experience, he took a Master's in Philosophy at Harvard and then a Doctorate in Germany.

As a student and journalist, Park was a formidable networker—besides Dewey, he became close to George Herbert Mead, studied with William James, Josiah Royce, George Santayana, Georg Simmel and Wilhelm Windelband. Then came his years at Tuskeegee with Booker T. Washington, and their notable European tours and writing, and his introduction to sociology by W. I. Thomas and Albion Small.

It was not until he was 50 that Park formally entered sociology, and began to teach and write from the University of Chicago. Within a decade, he was President of the American Sociological Association, a key figure in the American Journal of Sociology, and a central figure in the next generation of sociological work.

He continued his teaching and research until his death, and left many projects for his students' completion. He raised a splendid family, which his travels allowed him to live with sporadically, and he was blessed with an assertive and yet supportive wife, Clara.

Park was, as he later came to realize, essentially a social anthropologist. His vision, his hunger to organize experience, and his intellectual power did much to form the sociological tradition in America, and his biography is a welcome addition to the shelves of all social scientists who wonder how they might keep ever fresh the sociological vision.

JON VAN TIL

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MORRIS ROSENBERG: *Conceiving the Self*. Pp. 319. New York: Basic Books, 1979. $16.95.

Rosenberg's earlier explorations of self-esteem (cf. his *Society and the Adolescent Self-Image*) have proven to be valuable. This reviewer found his self-esteem scale useful in evaluation research concerned with the performances of youths in a variety of situations. In *Conceiving the Self*, the author attempts a wider and more systematic exploration of self concepts. He attempts to answer five major questions around which the book is organized: the nature of the self concept, the general principles of self-concept formation, the influence of social factors on self concepts, changes in self concept as children grow older, individuals' mechanisms for defending the self concept against the world. The emphasis is on the self-concept of young persons, because Rosenberg considers it most malleable in early life.

The basic tools of the research consist primarily of nine scales measuring self-esteem, self stability, depressive affect, self-consciousness, and the like. The empirical data are drawn from samples of youths in New York State and Baltimore, adults in Chicago, and, in addition, many empirical studies by others are cited.

Space limitations prevent the detailed discussion that the book deserves. As with many works that attempt a broad synthesis, the parts seem greater than the whole. The Guttman scales used have been developed and applied with much skill, and many valuable findings are scattered throughout the book which deserve replication by others. The chapter on self-concept disturbance is characteristically well done.

The limitations of the book reside in its theoretical framework. Though Rosenberg is well aware of the profound and perhaps insoluble riddles connected with the "self," this awareness does not save him from thinking of the self as a "thing" which is "most malleable" in youth but which—perhaps like the arteries—hardens in later life. The possibility that the self may be better approached as a drama of alternating identifications and disidentifications over the course of a lifetime is excluded by his rigidly quantified approach. Furthermore, despite the somewhat programmatic emphasis on the role of social forces in self-concept formation, the treatment, while always competent, is cursory and somewhat predictable. In brief, the theoretical framework at times appears to impose itself on the data instead of being drawn from experience.

These limitations aside, the many

valid insights and findings in the work make it a major contribution to the field.

ROBERT LILIENFELD

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JULIET SALTMAN. *Open Housing: Dynamics of a Social Movement*. Pp. xix, 424. New York: Praeger Publishers, 1978. $22.95.

The central issue of this volume is the relationship between institutionalization of a social movement, and the achievement of its goals and its continued existence. Saltman studies the open housing movement in the United States from the 1950s through the late 1970s at both the national and the local level.

In the former, she focuses on the origins and development of the National Committee Against Discrimination in Housing (NCDH). At the local level, she provides a detailed case study of the thirteen year open housing effort in Akron, Ohio; a comparative analysis of four other cities; and brief sketches of open housing efforts in yet a dozen other cities. An eighty-two page appendix of documents on NCDH and Akron is included.

Research methods used are historiography, participant observation (in the Akron case study), interviews, surveys of selected elites, and content analysis of some housing newsletters and daily newspapers. Saltman is a sociologist with several prior publications on housing and discrimination; she has been active in the open housing movement at the national level and in Akron, where she helped found one of the movement organizations she studies.

Saltman accurately describes her work as "primarily descriptive, qualitative and inductive" (p. 33). Her case studies are, for the most part, well-organized, interesting, and filled with insightful analysis. Saltman's statement that a social movement "can be understood only as a dynamic system of reciprocal influence" (p. 108) receives ample illustration and elaboration. We see the interplay between NCDH and federal agencies, the local and national levels of the movement, the changing civil rights movement and the open housing movement, federal agencies and the courts, different levels of the judiciary, foundations and the housing movement, and legislatures and courts. Saltman is particularly strong when dealing with organizational goals (formal and operational), their transformation, and the latent consequences of their pursuit.

Saltman says a paradox exists in the social science literature: social movement organization (SMO) success is defined by institutionalization, but it is claimed that institutionalization leads to movement decline. Using her case studies, Saltman concludes that (a) at the national and community level, institutionalization does not lead to decline; (b) external factors markedly affect whether a national movement declines after institutionalization; (c) decline of a community SMO after institutionalization is affected by internal and external factors which are closely intertwined; (d) community SMO success after institutionalization is most importantly affected by strong—not necessarily charismatic—leadership (more so, for example, than by funding level); (e) leadership continuity is not essential to growth and success of a community SMOs, and (f) initial structure helps reduce strains in community SMOs after institutionalization.

Saltman's analysis would have been sharper had she more carefully distinguished between social movement organizations and the larger movements of which they are but a part, and more systematically used the literatures she draws on in the analysis of her data.

Saltman's book is a reminder that residential segregation has often been reinforced (at points created) by federal and local governments and organized real estate interests. It is also a powerful reminder that much housing integration has come as a result, direct or indirect, of the millions of hours of volunteer time spent in its pursuit.

Especially in view of the price, the production job is wanting: right-hand columns are not justified, there are numerous typographical and other

errors (beyond the 29 listed on the errata sheet), and the binding on my copy is already beginning to crack.

This book will be useful to students of social movements and social change and to those who seek open housing.

CHARLES A. GOLDSMID
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WILLIAM JULIUS WILSON. *The Declining Significance of Race: Blacks and Changing American Institutions*. Pp. xii, 204. Chicago: University of Chicago Press, 1978. $12.50.

Controversy has surrounded this book and its author ever since its publication. The American Sociological Association honored it with one of its annual Spivack Awards for "significant contribution to the area of intergroup relations." Spearheading the opposition has been the Association of Black Sociologists. It has criticized Wilson's data presentation and conclusions, but its bitterest attack has been aimed at those who would use the book's title and contents to support their claim that America's problems of racial inequality need no longer be of central concern to policymakers.

Does the book deserve either the intense opprobrium or the praise it has received? In fact, it is much less polemical than the bulk of reactors to it. It is a work of scholarship, providing generally impressive supporting data and using a wide variety of respected reference sources. The title is, indeed, open to misinterpretation. For while it signals Wilson's conclusion that pure racial considerations have decreasing importance in determining the fates of black Americans today, it ignores his heavy emphasis on the legacy of unredressed past discrimination as a major cause of continuing gross inequality in the general status of blacks and whites.

It is Wilson's contention that this legacy operates nowadays not so much through personal prejudice on the part of whites as through what others have called "institutionalized racism": the impersonal workings of institutions (particularly the economy) whose modern requirements favor those who have key personal resources—resources that most blacks have in the past been hindered from adequately developing or acquiring.

The resource that Wilson focuses on is education, both general and in special skills. For talented and well educated blacks, opportunities have opened wide. But for disproportionately large numbers of poorly trained blacks—the products of impoverished economic backgrounds generally not conducive to educational attainment—chances for decent employment have dwindled. Exacerbating the problem is movement of business and industry from central cities to outlying areas for reasons again not generally associated with race, but with the result that predominantly inner-city blacks have a disadvantage even in physical access to economic opportunities.

Wilson's critics are undoubtedly correct that he overstates the success of middle class blacks. There is still justifiable concern that the gains are all too vulnerable to changes in economic conditions. Moreover, the median income gap between well educated, white-collar blacks and their white counterparts is, if anything, greater than for other blacks. Also, opportunities for positions offering the very top levels of authority and pay are still extremely rare.

But the critics do no one a service by seeming to deny the key thrust of Wilson's book: that the civil rights movement has benefited only a portion of the black community, with much of the population more entrenched than ever in their positions at the bottom of the class structure. They would do well to endorse the book's final statement:

> . . . the challenge of economic dislocation in modern industrial society calls for public policy programs to attack inequality on a broad class front, policy programs, in other words, that go beyond the limits of ethnic and racial discrimination by directly confronting the pervasive and destructive features of class subordination.

Wilson is far from being an apologist for the status quo. His essentially Marxian analysis of current racial conditions in

this country is worthy of serious and open minded attention.

M. RICHARD CRAMER
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ECONOMICS

ALAN ALTSHULER, JAMES P. WOMACK, and JOHN R. PUCHER. *The Urban Transportation System: Politics and Policy Innovation.* Pp. xii, 558. Cambridge, MA: MIT Press, 1979. $29.95.

Despite popular press reviews on the book's jacket that the volume "upsets conventional wisdom," clearly the important point is "who's conventional wisdom?" If it is society's as a whole, then the statement is certainly true. But society's conventional wisdom in many areas is wrong—urban transportation has no monopoly in that regard. If one is speaking of the serious student of urban transportation, then the statement has less credibility.

Thus it is no news to me, as a transportation economist, that economic solutions to urban transportation problems (or any problems) have had and will have a difficult time being implemented or that politicians adopt short run expediency solutions to problems and solutions designed to please (or not antagonize) their constituency.

After saying the obvious, what is enlightening about the book is the application of the above observations (concerning the politicizing of the decision process and the application of the political maxims developed by Altshuler et. al.) to actual situations to explain behavior in the U.S. urban transportation market; for example, the transition of urban public transportation from a private enterprise to a public enterprise and through federal capital subsidy to operating subsidy.

Altshuler et. al. investigate eight broadly defined ways to change the urban system. These are defined to be innovative in nature while defining all current activity as noninnovative. Some of the eight ways are distributive in nature, basically giving more service to a subset of the urban market—highway capacity expansion—while others entail constraint on use of the system—pricing. Of course, a restraint mechanism also has distributive effects. These eight areas (highway expansion, transit expansion, demand responsive transit, ride sharing, traffic management, business regulation, consumer regulation, and pricing) are then treated in detail.

It is shown that demand responsive transit is very expensive and not cost effective, that transit expansion and car pooling will only serve a relatively small market, that traffic management techniques such as giving busses or high occupancy vehicles lane preference can have dramatic effects in a micro market but limited overall usefulness, that business regulation is politically palatable because politicans can insulate themselves from any adverse cause and effect relationships (such as price increases) by putting big business inbetween, that regulatory measures directly affecting the consumer—read voter—such as seat belt laws are politically unpalatable, and that pricing mechanisms, regardless of their economic efficiency, are very politically unacceptable.

The most interesting chapters are 5 through 10, which investigate the criteria for current system performance, viewed by many as a serious problem requiring remedial action. These are Energy, Air Quality, Equity, Safety, Congestion, and Land Use Impact. A good many conventional wisdoms are exposed to the public in these chapters.

The overwhelming conclusion of the book will make the advocates of the Meyer, Kain, and Wohl book on the urban transportation problem of the 1960s overjoyed. The auto is here to stay. The love affair with autos will defy the national trend and not end in divorce. Altshuler sees people's demand for suburban space and lifestyle as overwhelming. The monetary expense and time expense (through congestion) is a price suburbanites are willing to pay. America commutes (and shops and

pleasure trips) overwhelmingly by auto (except for a few cities and few micro routes). This is an expression of preference and the fact that cost effective alternatives do not and are not likely to exist.

Although I believe that the auto argument is overstated and does not allow for the tastes and attitudes of future generations and an ultimately dwindling petroleum supply, I feel the book is a valuable one because it contains such good documentation and a comprehensive analysis of urban transportation problems.

W. BRUCE ALLEN
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RODNEY CLARK. *The Japanese Company.* Pp. x, 282. New Haven, CT: Yale University Press, 1979. $17.50.

A principal purpose of this book is to show that the organization of businesses in Japan is different than in the West. Japanese business enterprises measure their success by market share whereas in the West, success is measured by profit. In Japan, lifetime employment with a company is the ideal; in the West, it is not. In Japan, age is the major criteria for pay and promotion; in the West, there is greater emphasis on merit. These are some important examples of the differences; there are many others.

The author spent over five years working in Japanese companies. Part of the time he studied in detail the personnel organization and management of one company. Although lifetime employment is an important ideal, it is confined to the larger companies, and even there the author found important exceptions. There is considerable labor mobility prior to age 25, and the attitudes of the younger, mobile workers are different from those of the workers strongly attached to the company. Also, lifetime employment does not include women workers. Japanese women work prior to marriage, but after marriage almost always give up their jobs. In addition, lifetime employment ends at the compulsory retirement age of 55. After age 55, a worker usually takes a job in another company or a low-rank job in the same company.

Although one would expect the Japanese practices of not firing employees and of paying and promoting persons primarily by age and length of service to result in shirking and inefficiency, this is not the case. There are many reasons. In Japan, the larger the company, the better the company is considered to be as a place of work. As a result, employees benefit from the growth of the company, and there is a strong team spirit to increase the company's market share. In addition, the lift of the worker is centered in the company. Workers spend the bulk of their time on the job because hours of work per week are much longer than in the West.

Prior to marriage, workers live in company hostels. Companies provide recreational facilities—also housing for many of the married employees. Authority is maintained because company officials control transfers, promotions, and the assignment of tasks, and because many workers have little mobility as a result of life-time employment. Finally, the author believes that self-interest is a relatively weak motive for Japanese workers. Instead, the idea of serving society is important, and Japanese workers believe that the way to serve society is to work hard so that the company is successful.

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RICHARD EDWARDS. *Contested Terrain: The Transformation of the Workplace in the Twentieth Century.* Pp. ix, 261. New York: Basic Books, 1979. $12.95.

Although the phenomenon of advocacy journalism is now well understood, that of advocacy economics, on both the right and left, is little noted. This work, packaged as scholarship, concludes with a frank appeal for socialism, significantly less confident than such appeals used to be:

> Whether a socialist and democratic society (and not just a democratic socialist program)

can be constructed remains a further imponderable. Certainly our highly concentrated and increasingly undemocratic capitalism grows more intolerable daily. So, too, it seems inevitable that democratic socialism cannot be realized unless progressive forces everywhere struggle for both democracy and socialism. To do less shortchanges our future (p. 216).

Edwards begins with a well-written and imaginative chapter showing different methods used to control the work force in different industrial situations. From that point on, theory, ideology, and a sometimes curious use of the work of labor and business historians take over, to produce a work that is more polemic than analysis. This is a pity because Edwards is not a knee-jerk socialist: he understands that neither what he calls "bourgeois sociology" nor "classical Marxism" has developed adequate terminology to describe the divisions of working people in post-World War II America, but his notion that dividing the working class into three "fractions"—the working poor, the traditional proletariat, and the middle layers—is an improvement, is naive. He could just as well have made it nine, or even twenty seven. What Edwards never wants to consider is whether or not it any longer makes sense to talk of an American working class, especially if, as he does, you make that term synonymous with the ninety million Americans currently in the labor force.

This work is, in the final analysis, another attempt to salvage something of the Marxist tradition to keep it, somehow, relevant to the issues of the 1980s and beyond. It will be applauded by the converted, of real interest to those who want to understand the New Left, but not much use to those who wish to understand the changing nature of what has been called post industrial man.

ROGER DANIELS

University of Cincinnati
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BERNARD J. FRIEDEN. *The Environmental Protection Hustle*. Pp. xi, 211. Cambridge, MA: MIT Press, 1979. $12.50.

HAROLD SPROUT and MARGARE[T] SPROUT. *The Context of Environment[al] Politics: Unfinished Business f[or] America's Third Century*. Pp. 21[…] Lexington: The University Press [of] Kentucky, 1978. $9.75.

The titles of these books suggest th[at] they are totally at odds with each othe[r]. Actually they are complementary. Fri[e]den offers an argumentative, but analyt[i]cal, interpretation of the withering effec[t] that environmental politics has had upo[n] the costs of homeownership in Californi[a]. He notes that rising prices for homes a[re] not just the result of inflation, scar[ce] building materials and post-war babi[es] now matured into aspiring home owne[rs]. Rather, prospective owners are thwart[ed] in the market place by a coalition [of] "suburbanites who feared [homebuildin[g]] would bring higher taxes and damagi[ng] social consequences, environmentalis[ts] concerned about the impact of grow[th] on the natural landscape, and loc[al] government officials sympathetic [to] these views" (p. 3). "Whenever possib[le] suburban governments used metho[ds] that cost their own taxpayers nothi[ng] and that shifted the financial burden [of] their policies to new homebuyers, [to] the states' taxpayers at large, or to th[e] federal government" (p. 5).

The hustle goes like this. For tho[se] who have desirable suburban housi[ng] and no economic stakes in growth, [no-]growth policies are desirable. Protecti[ng] "our" environment is a powerful slog[an] to mobilize people and authorities again[st] the developers, who are easily reco[g]nized as "rapists of the landscape[."] Complex development reviews a[nd] numerous veto points mean that th[e] opponents of growth have multiple o[p]portunities to defeat or delay develo[p]ment. Benefits, which are cheaply o[b]tained, include wilderness owned an[d] maintained by government but mo[re] accessible to the obstructionists, prote[c]tion for exclusive residential living, an[d] higher home values. The losers are ta[x]payers and the unorganized famili[es] who want to buy suburban housin[g]. Frieden offers a tip on the future of th[e] hustle: "Will environmentally soun[d]

development win the backing of environmental groups? Not if the alternative is no development at all" (p. 71).

Frieden's contribution is in showing that the politics of a seemingly benign matter, environmental protection, does not equitably distribute benefits and costs. Policymakers must understand who gets what in order to fulfill competing needs for accessible housing for young families and protection of the biosphere for the progeny of those families.

The Sprouts offer a wide-angle view of environmental concerns. They write as patresfamilias for their grandchildren (to whom the book is dedicated) and all the inheritors of America's third century. Having observed the voracious appetite of American society for nonrenewable resources of energy and having considered the careless habits we have learned to enjoy, they are pessimistic that sheer technology can satisfy such consumerism.

> We incline to agree with those economists who contend that the conventional growth process rests upon an eroding foundation. We find no ground for believing that pure and applied science and the marketplace can sustain currentstyle growth indefinitely. The energy cost of getting more energy seems likely to go on rising, and sooner or later the units of energy thus consumed seem likely to overtake the units of new energy obtained. We are impressed that this application of the venerable principle of diminishing returns applies not only to fossil fuels but also to nuclear fission, and perhaps to nuclear fusion as well, if (as rarely occurs) calculations of cost include all relevant items—research, experimentation, capital investment, operating costs, security of plants, price and availability of fuels, security of fuels and residues in transit, and safe disposal of worn-out reactors and spent-fuel residues that remain lethally radioactive virtually forever (pp. 174–5).

These sage emeriti are not opponents of growth and technological development. Rather they enumerate the often overlooked hazards that accompany technology. In noting the security problems associated with deriving energy from nuclear fission, and they observe that optimistic scenarios must "assume a perfection of safeguards and a degree and continuity of public order never remotely approached in any era" (p. 102). These sensitivities spawn a moral argument to demand less, consume less, and depend more upon renewable resources of the biosphere.

These are sobering books. Environmental hustles could discredit broader efforts to preserve a decently livable habitat. Can individual consumers forswear present appetites for the benefit of their offspring? This requires a morality that places a high value on posterity. The Sprouts may not be entirely prescient in their anticipation of the problems or what will be the keys to their solution, but their thoughtful views merit serious consideration.

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JOHN KENNETH GALBRAITH. *The Nature of Mass Poverty*. Pp. viii, 150. Cambridge, MA: Harvard University Press, 1979. $8.95.

In *The Affluent Society*, John Kenneth Galbraith examined the nature of affluence and the reasons why, in affluent societies, a minority remains in poverty. In *The Nature of Mass Poverty*, Galbraith turns his attention to the widespread rural poverty of the developing countries. He seeks to explain the aetiology of mass poverty and the persistence of mass poverty despite international development efforts. He also attempts to provide a new strategy for the alleviation of this problem.

Galbraith's book is written in an engaging, lucid and nontechnical style. It begins with an overview of the prevailing explanations of mass poverty (a dearth of natural, human and capital resources, unfavorable terms of trade, the colonialist legacy, ethnicity, and climate) all of which Galbraith discounts as either insufficient or irrelevant. His assertions regarding the illegitimacy of select notions of the causes of mass poverty sometimes require giant leaps of faith to be accepted—but this is precisely Galbraith's point. Conventional development eco-

nomics is premised on the validity of transferring Western solutions to developing countries with similar problems. Further, sociologists of knowledge have argued that ideas are socially determined and relative to a particular social and economic structure. It is not surprising, therefore, that Western advisers have unquestioningly sought the introduction of proven Western solutions to the problems of the developing world.

In a brief but important digression, Galbraith traces the evolution of American international development policy. The emphases on technical backwardness and capital shortages were not only consonant with the dominant Western constructions of the realities of developing countries but were also demanded by the exigencies of policy. Galbraith concludes that "fundamental to an understanding of the policy against poverty was . . . making . . . the cause(s) fit the action" (pp. 35–36).

In Galbraith's estimation, the root cause of mass poverty is "accommodation—the acquiescence of the poor to the hopelessness of prospects for improvement. Acquiescence can be seen as a profoundly rational response and optimal solution because the structure of poverty militates against any enduring benefits that may come from some improvement. Where people live at subsistance levels, slight increases in income result in increased consumption (not saving—a prerequisite for investment). Social forces and biological forces to reproduce also come into play, undermining any moderate gains and returning the poor to an equilibrium of poverty.

Galbraith stresses that accommodation is not universal; a small minority do reject it. According to Galbraith, the combating of accommodation requires a number of strategies. The major means to this end is general education and the heightened consciousness that it engenders; however, education by itself is insufficient. Avenues of escape from mass poverty must also be provided. One avenue of escape from mass poverty lies within the poverty equilibrium and demands the adoption of modern agricultural techniques. Another avenue involves helping the "accommodation rejectionists" find alternative employment, either within or outside of their own countries. The final strategy demands the targeting of scarce resources on those who resist accommodation, most often only a small minority.

Galbraith's solutions follow smoothly and seductively from his earlier arguments, but not altogether convincingly. Accomodation smacks of the "culture of poverty" notions that have sought to explain American poverty. Further, Galbraith's solutions have strong parallels to the opportunity structure theories that animated many of the War on Poverty programs in the U.S. during the 1960s. Thus, Galbraith himself could perhaps be criticized for using too close an analogue to a Western concept in explaining the mass poverty of developing countries.

The tightness of Galbraith's argument is another source of concern. While searching for a coherent group of explanations of mass poverty that may serve better than those currently available, Galbraith essentially slips into a single-cause explanation—accommodation. However, accommodation necessarily remains a hypothetical construction until tested against relevant empirical evidence. (Ethnographic studies may shed light on the validity of the construct and its utility as a basis for guiding interventions.) Further, the trend in much of social science is to account for social phenomena in multiple terms. To be sure, Galbraith may have deemed his approach necessary for the purposes of exposition. However, even where recognition is given to the secondary role played by other factors in explaining mass poverty, Galbraith fails to deal with the importance of these factors relative to one another.

Finally, Galbraith does not deal with the potential unanticipated consequences of implementing his strategies for poverty reduction. Galbraith's arguments would have been both more complete and plausible if, for example, he had speculated on the consequences for the distribution of income and, in turn, on the socioeconomic fabric and polity of the developing country, of the minority of accommodation-rejectionists escaping poverty.

One of the major strengths of *The Nature of Mass Poverty* is that it represents an important effort to overcome the "cultural imperialism" that inheres in the application of Western knowledge to non-Western societies. It is also refreshing and encouraging to witness the appearance of Galbraith's book at a time when inflation, budgetary constraints, and the growing assertiveness of Third World countries portends a far from congenial environment for a greater sharing of the rich countries' wealth with poorer countries. The merits of accommodation as an adequate explanation of mass poverty and the viability of the suggested solutions remain to be studied. Galbraith has suggested an important area in need of investigation that should not be overlooked.

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DAN HAENDEL. *Foreign Investments and the Management of Political Risk.* Pp. xviii, 206. Boulder, CO: Westview Press, 1979. $18.50.

Professor Haendel's book discusses political risk analysis and management of foreign investments with particular attention to the problems multinational enterprise (MNE) envisages in its foreign investments and operations. This monograph attempts to enhance the scope and knowledge of political risk analysis by synthesizing various academic and business case studies on the subject. In addition, the book examines some conceptual confusions surrounding the subject and reviews some frameworks with implementation to specific data.

The first chapter focuses on the relationships between MNE, LDCs (host countries), and the US government; it also examines the perplexing paralysis of terrorism and corporate bribery. It uses actual corporate experience—Dow Chemical Co. during Allende's Chile—to illustrate a framework for dealing with political uncertainty.

Chapter two discusses the recent congressional restrictions on the Overseas Private Investment Corporation (OPIC) which helped proliferate the private insurance industry—like Lloyd's of London. To further elucidate the conceptual ambiguity of political risk, Chapter three reviews and identifies some analytical and definitional models proposed for the subject: the probability of some political event(s) changing the prospects for the profitability of a given investment.

The fourth chapter discusses the subject matter with some empirical indicator-based measurements like the political system stability index (PSSI)—which assumes that the degree of a country's political stability may indicate its capacity to cope with new demands (p. 107). It points out that the lack of a systematic analysis of political events can lead to unnecessary behavior by MNEs. A case in point was the U.S. investors' reaction to Castro's 1959 expropriation of US assets on Latin America (p. 91).

Chapters five and six synthesize and provide frameworks (Bayesian analysis) for monitoring political risk. Furthermore, they analyze methods through which foreign investors can conduct their enterprises so as to minimize and manage political risk. Chapter seven summarizes the intellectual capital embodied in the volume.

This is a "must read" book. Each chapter gives particular attention to various problems confronting the MNEs in their foreign investments and operations. Professor Haendel uses tables, figures, notes, appendices and references to illustrate the seemingly difficult topic. The book is valuable to the executives and portfolio managers of MNEs and students of international relations and business.

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JOHN D. WIRTH and ROBERT L. JONES, eds. *Manchester and São Paulo: Problems of Rapid Urban Growth.* Pp. 234. Stanford, CA: Stanford University Press, 1978. $17.50.

This book is the record of the conference held at Stanford University in April 1977 on Manchester and São Paulo

as "paradigm cities." Specialists from Connecticut, Texas, Wisconsin, Brazil, Canada, and England were given the task of proving that it was indeed possible "to mix British Studies with Latin American Studies so that each case and the research on each could be suggestively and legitimately related." (The present mix has nothing to do with Latin America as a whole, only with one of its significant component parts.)

What resulted from the discussions under the palms and encinas of California was a series of papers that tried to piece together separately or in unison the development of an English city and a Brazilian city. Bryan Roberts, much better than the principal editor, stated the case very well for a comparative view of Manchester and São Paulo, but even he must have realized that they were not sisters and that, in the absence of a family connection, no amount of effort would be enough to hide the contradictions.

In pursuit of the announced goal, the participants covered the waterfront as best they could. The level of excellence was quite remarkable (whatever the relationship between disparate entities might be), and sometimes there were fresh insights on a wide spectrum of topics, from economics and sociology to religion and association football. Professor Wirth says in his preface that the papers "having started with questions," end "not with answers but with different and deeper questions." A nice way of recognizing that social science never solves anything, and an admission of the failure of a collective effort to write the tale of two cities.

If the purpose of the conference had been scholarship as such, if the speakers could have divested themselves of the straitjackets they were obliged to wear, if the rationale had been art for art's sake, we would have been satisfied with intelligent essays that increase our knowledge of São Paulo, the most ignored of the great cities of the Atlantic, and even of Manchester, a city that is no longer what it was and that nobody gives a fig for.

Richard Morse ventures manfully to build economic and sociological bridges that might explain differences. He is well equipped as an historian with social science tendencies to serve as the *pontifex maximus*, but he was not able to cross the Tiber without falling in. Bryan Roberts' paper on agrarian organization and urban development I found sensitive and plausible, the one on the Brazilian modernist movement less artfully done. Other papers could be singled out for attention in this badly proofread book, but a gracious plenty has been said to make clear the opinion of it that I hold, that it is an estimable achievement in itself; as a comparative construct, it will convince nobody.

If the ideal were possible in an imperfect world, I would have preferred direct Marxist interpretations of the capitalist phenomena that Manchester and São Paulo surely are—one could always overlook the limitations of the dialectic—or, *faute de mieux*, reflections by alert literary people and by philosophers not bogged down with the meaning of meaning but willing to use moral and theological antennas. Maybe Professor Wirth, the next time round, will want to organize a conference to contemplate what has gone wrong with cities as powerful in the time and place as the two that were chosen for dissection. It might then be possible to imagine what ought to be done to improve them, and whether or not the comparative method had anything to offer.

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